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# INDEX

TO THE

# EXECUTIVE DOCUMENTS

OF THE

# HOUSE OF REPRESENTATIVES

FOR THE

SECOND SESSION OF THE FIFTIETH CONGRESS,

1888-'89.

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RELATING TO THE

# FOREIGN RELATIONS

OF

# THE UNITED STATES,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 3, 1888,

PRECEDED BY A

LIST OF PAPERS, WITH SYNOPSES OF THEIR CONTENTS, AND FOLLOWED BY AN ALPHABETICAL INDEX OF SUBJECTS.

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WASHINGTON:
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| 775 | Same to same (No. 15)..... | Mar. 22 | Attempted kidnapping of a deserter by Mexican soldiers at Eagle Pass: Review of the facts in the case; reparation, a disavowal, and indemnity to the sheriff to be asked; depositions of witnesses inclosed. | 1176 |

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| 776 | Mr. Bragg to Mr. Bayard (No. 10). | Mar. 23 | Imprisonment of B. C. Work: Letter of Mr. Work, describing his position as perilous, and asking legation's interposition; case presented to Mr. Mariscal; copy of Mr. Work's letter and of note to Mr. Mariscal inclosed. | 1182 |
| 777 | Same to same (No. 11)..... | Mar. 28 | Arrest of Oliver Woods: He is released; translation of note from Mr. Mariscal inclosed. | 1184 |
| 778 | Same to same (No. 12) ..... | Mar. 28 | Trespasses by Mexican troops on the United States frontier: Translation of a circular of the Mexican war department, calling the attention of Mexican officers to trespasses and enjoining greater care and vigilance, inclosed. | 1184 |
| 779 | Same to same (No. 13) ..... | Mar. 28 | Imprisonment of B. C. Work: The governor of Tamaulipas charged to secure Work a fair trial; translation of note from Mr. Mariscal inclosed. | 1185 |
| 780 | Same to same (No. 20) ..... | Apr. 9 | Attempt to kidnap a Mexican deserter, Atanacio Luis, by Mexican soldiers at Eagle Pass; the case presented to Mr. Mariscal; copy of note inclosed. | 1185 |
| 781 | Same to same (No. 23) ..... | Apr. 14 | Attempted kidnapping of a deserter by Mexican soldiers at Eagle Pass: Translation of Mr. Mariscal's reply to a note on the subject inclosed. | 1186 |
| 782 | Same to same (No. 28) ..... | Apr. 20 | Attempted kidnapping by Mexican soldiers of a deserter at Eagle Pass; the trial of the officers implicated begun; translation from the Two Republics inclosed. | 1187 |
| 783 | Mr. Bragg to Mr. Bayard (No. 29). | Apr. 24 | Abduction by Mexican soldiers of prisoners in custody of American officials at Nogales, Ariz.: Death sentences of Colonel Arvizu and Lieutenant Gutierrez affirmed; findings of the court. | 1187 |
| 784 | Same to same (No. 30) ..... | Apr. 28 | Abduction by Mexican soldiers of prisoners in custody of American officials in Arizona: Death sentence of Colonel Arvizu and Lieutenant Gutierrez commuted to twenty years' imprisonment; translation of Mr. Mariscal's note of April 27, inclosed. | 1188 |
| 785 | Same to same (No. 42) ..... | May 4 | Claim of A. K. Cutting: Regret that more attention has not been paid by the Mexican to the representations of this Government in regard to the claim of criminal jurisdiction by Mexico over United States territory to which the claim for compensation was subordinated; the international question not affected by Mr. Cutting's merits; refutation of Mr. Mariscal's position in regard to the extraterritoriality of penal laws; the laws of New York and Texas opposed to article 186 of Mexican law; modification of that article to be asked. | 1189 |
| 786 | Mr. Bragg to Mr. Bayard (No. 35). | May 5 | Imprisonment of B. C. Work: Mr. Work in the enjoyment of all the guaranties the law accords, and the court endeavoring to hasten the trial; note from Mr. Mariscal inclosed. | 1191 |
| 787 | Mr. Bayard to Mr. Bragg (No. 46). | May 7 | Abduction by Mexican soldiers of prisoners in charge of American officers at Nogales: Death sentence of the Mexican officers commuted to twenty years' imprisonment; gratification of this Government. | 1191 |
| 788 | Mr. Bragg to Mr. Bayard (No. 37). | May 8 | Treaty of amity, commerce, and navigation between France and Mexico, concluded on April 14, 1888, to remain in force until 1892; translation inclosed. | 1192 |
| 789 | Mr. Bayard to Mr. Bragg (No. 48). | May 10 | Attack by Mexicans on visiting Papago Indians: The case and status of the Indians in Mexico to be investigated; copy of letter of Acting Secretary of the Interior transmitting letters from the Commissioner of Indian Affairs and Indian agent at Pima, Ariz., inclosed. | 1197 |
| 790 | Mr. Bragg to Mr. Bayard (No. 48). | May 30 | Claim of A. K. Cutting: Copy of Mr. Bayard's No. 42 on the subject transmitted to the Mexican minister for foreign affairs; Mr. Bragg's note to the Mexican minister inclosed. | 1199 |
| 791 | Same to same (No. 54) ..... | May 30 | Papago Indians: The condition of affairs on the Sonora border between Mexican soldiers and the Papago Indians explained to Mr. Mariscal, and a note to him written on the subject at his request; the note inclosed. | 1199 |

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| 792 | Mr. Bragg to Mr. Bayard (No. 56). | May 30 | Wing dams at El Paso: The complaint of the citizens of El Paso of injury threatened to property by the wing dams on the Mexican side of the Rio Grande communicated to Mr. Mariscal; avoidance of reference to future effects in Mr. Mariscal's reply; Mr. Bragg's note to Mr. Mariscal and the reply inclosed. | 1200 |
| 793 | Same to same (No. 58) ..... | May 21 | Claim of A. K. Cutting: Note from Mr. Mariscal stating that he had taken under advisement Mr. Bayard's instruction in the case inclosed. | 1201 |
| 794 | Same to same (No. 64) ..... | June 5 | Claim of Mrs. Baldwin for the murder of Leon M. Baldwin: Note transmitting to Mr. Mariscal the Department's instruction, and Mr. Mariscal's reply inclosed. | 1203 |
| 795 | Mr. Bayard to Mr. Bragg (No. 64). | June 7 | Imprisonment of B. B. Glasier, charged with misappropriating funds of the International Huntingdon Railway Company; arbitrary interruption of the consul's interview with him by the local judge; the right denied the prisoner one of international law and recognized by Mexican law; instructions to be asked of the Mexican Government that in future American consular or diplomatic representatives may have free access to Americans imprisoned in Mexico; Mr. Allen's No. 71 and Mr. Sutton's No. 496 inclosed. | 1203 |
| 796 | Mr. Bragg to Mr. Bayard (No. 75). | June 18 | Imprisonment of Henry Brudigam: Instructions asked in regard to the objection of Mr. Mariscal that declaration of intention to become a citizen of the United States does not give the United States right to interfere in the case; belief that it does give the right; Brudigam has not appealed to the legation of Germany, of which country he is a native; but his partner has; incorrectness of the record and insufficiency of the proof of guilt; copy of correspondence with Mr. Mariscal in regard to the case, and extracts from the testimony and findings, and sentence of the appellate court, inclosed. | 1205 |
| 797 | Same to same (No. 85) ..... | July 2 | Imprisonment of B. B. Glazier: Copy of note calling Mr. Mariscal's attention to the case and his reply inclosed. | 1215 |
| 798 | Mr. Bayard to Mr. Bragg (No. 87). | July 11 | Extradition of Shields and Wilson, charged with murder: J. S. Van Riper authorized to receive the prisoners; papers in the case transmitted to the Attorney-General for Mr. Van Riper; necessary application to be made to the Mexican Government. | 1216 |
| 799 | Mr. Bragg to Mr. Bayard (No. 94). | July 18 | Re-election of President Diaz: Interview by appointment; congratulatory speech and reply; anniversary of the death of President Juarez; the legation's flag at half-mast and a floral wreath contributed to the decorations. | 1216 |
| 800 | Mr. Bayard to Mr. Bragg (No. 88). | July 19 | Claim of Mrs. Baldwin for the murder of Leon Baldwin: Mr. Clement reports the retaking of testimony which he fears may be prejudicial to his client; he suggests that the United States consul be instructed to take testimony; informed that the consul has no power to summon witnesses, but can take the depositions of all who appear before him, and that *ex parte* contradictions can not affect well-known facts; copy of Mr. Clement's letters of July 9 and 10, covering copy of testimony retaken in the case, inclosed. | 1217 |
| 801 | Mr. Bragg to Mr. Bayard (No. 97). | July 23 | Extradition of Shields and Wilson: Order for their arrest requested of Mr. Mariscal, pending application for their extradition. | 1219 |
| 802 | Same to same (No. 102) ..... | July 24 | Extradition of Shields and Wilson: Reply of Mr. Mariscal, asking data to aid the Mexican officers in effecting their arrest, inclosed. | 1220 |
| 803 | Mr. Bayard to Mr. Bragg (No. 92). | July 31 | Congratulatory speech and floral gift to President Diaz on his re-election approved. | 1220 |
| 804 | Mr. Bayard to Mr. Bragg (No. 110). | Aug. 21 | Extradition of Shields and Wilson: They are Seminole negro Indians supposed to be on the Seminole Reservation in the State of Coahuila, Mexico; a new warrant issued substituting Mr. J. T. Rankin in place of Mr. Van Riper; letter from Acting Attorney-General of August 20, 1888, inclosed. | 1221 |

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| 805 | Same to same (No. 113) ... | Aug. 24 | Imprisonment of Henry Brudigam: Information as to his birth, place of residence, etc.; the Department does not recede from its position in regard to foreigners domicil d in the United States; failure to become naturalized tends to contradict the supposition of domicile; excepted cases; evidence tends to show that Brudigam is domiciled in Mexico and not entitled to the interposition of the Department in his favor. | 1221 |
| 806 | Mr. Bragg to Mr. Bayard (No. 122). | Aug. 28 | Papago Indians: The soldiers who attacked the Indians State militia; they will be held to account. | 1223 |
| 807 | Same to same (No. 123) ..... | Aug. 29 | Imprisonment of B. C. Work at Tamaulipas on the charge of homicide: Note to Mr. Mariscal; letter from Mr. King and letter of Mr. Work inclosed. | 1223 |
| 808 | Same to same (No. 134)..... | Sept. 1 | Papago Indians: Mr. Marsical's note transmitting the account of Governor Corral, of Sonora, whereby it appears that the Indians were wholly to blame for the troubles with the soldiery, inclosed. | 1225 |
| 809 | Same to same (No. 140) ..... | Sept. 8 | Imprisonment of Henry Brudigam: The decision of the Department against the claim of American citizenship of Brudigam communicated to Mr. Mariscal and to the vice consul at Chihuahua; note to Mr. Mariscal inclosed. | 1227 |
| 810 | Mr. Bayard to Mr. Bragg (No. 123). | Sept. 12 | Imprisonment of B. C. Work in Tamaulipas, charged with homicide: The presentation of the case to Mr. Mariscal approved; no opinion as to the motives of the arrest expressed; a speedy trial hoped for. | 1228 |
| 811 | Mr. Bragg to Mr. Bayard (No. 141). | Sept. 14 | Extradition of Shields and Wilson: The governor of Coahuila requested by Mr. Mariscal to arrest Shields and Wilson: Mr. Rankin telegraphed, as they can only be held seventy-two hours; Mr. Mariscal's note giving information of his request inclosed. | 1228 |
| 812 | Same to same (No. 144) ..... | Sept. 19 | Message of President Diaz: Omission of mention of invitation to participate in the convention of American Republics and the convention to revise marine cases; the message inclosed. | 1229 |
| 813 | Same to same (No. 163) ..... | Oct. 15 | Imprisonment of B. C. Work: Note of Mr. Mariscal covering Mr. Work's statement before the court; former statements apparently untrue; Mr. Mariscal's note and Mr. Work's statement inclosed. | 1234 |
| 814 | Mr. Whitehouse to Mr. Bayard (No. 175). | Oct. 29 | Extradition of Shields and Wilson: Their arrest announced by Mr. Mariscal; the information telegraphed to the Department and to Mr. Rankin; difficulty possible about their extradition, as they can only legally be held seventy-two hours and were arrested on the 5th; another application, if necessary, will be made to Mr. Mariscal; probability that a requisition by the governor of Texas on the governor of Coahuila will result satisfactorily; Mr. Mariscal's note inclosed. | 1236 |
| 815 | Mr. Rives to Mr. Whitehouse (No. 152). | Nov. 1 | Extradition of Shields and Wilson: Their arrest reported to the Attorney-General. | 1237 |
| 816 | Mr. Whitehouse to Mr. Bayard (No. 178). | Nov. 1 | Extradition of Shields and Wilson: Telegram from United States marshal that he would proceed to Muzquiz in four days; reply of Mr. Mariscal to a request that their surrender be recommended to the governor of Coahuila, that a formal request had not been made, but that when it was, and proper extradition proceedings following, their delivery would be ordered; the legation ignorant of necessary details; Mr. Mariscal again refuses to recommend informally the surrender of the prisoners; possibility that the governor of Coahuila may surrender them by his own authority; if not, it will be necessary for the marshal to bring the papers to the legation and for a formal request to be made; Mr. Whitehouse to Mr. Mariscal, and Mr. Mariscal's reply, inclosed. | 1238 |

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| 817 | Mr. Adee to Mr. Whitehouse (No. 158). | Nov. 6 | Extradition of Shields and Wilson: Copy of legation's No. 175 sent to the Attorney-General. | 1239 |
| 818 | Mr. Bayard to Mr. Whitehouse (No. 160). | Nov. 9 | Imprisonment of B. C. Work: Previous representations to the Department so contradicted by Mr. Work's affidavit as to make them inadmissible for grounds of further action; copy of Mr. Bragg's dispatch forwarded to Mr. Sutton with the above information. | 1239 |
| 819 | Mr. Whitehouse to Mr. Bayard (No. 182). | Nov. 12 | Extradition of Shields and Wilson: A formal demand made to Mr. Mariscal with the statement that by the treaty of 1861 a requisition from the governor of Texas to the governor of Coahuila would be sufficient; promise of Mr. Mariscal to telegraph the governor of Coahuila to act according to treaty if an application was made to him; nothing heard about the case since dispatch No. 178; probability that any difficulty experienced by Mr. Rankin would have been communicated to the legation or the Mexican Government; ignorant as to cause of Department's order for requisition; Mr. Whitehouse to Mr. Mariscal, inclosed. | 1240 |
| 820 | Mr. Bayard to Mr. Whitehouse (No. 162). | Nov. 13 | Extradition of Shields and Wilson: Formal request for their extradition directed to be made by telegram of the 10th instant. | 1241 |
| 821 | Mr. Rives to Mr. Whitehouse (No. 167). | Nov. 15 | Wing-dams on the Rio Grande: Telegram stating that a wing-dam opposite to and partly in El Paso was being constructed by the Mexican Government, that this was in violation of the convention of 1884, that the suspension of the work for investigation was reported, that a competent engineer would be sent, and that it be suggested that Mexico do the same, is confirmed; telegram stating willingness of Mexico to co-operate and that instructions had been sent Mr. Romero to confer on the subject received. | 1241 |
| 822 | Mr. Whitehouse to Mr. Bayard (No. 187). | Nov. 15 | Wing-dams on the Rio Grande: Interview with Mr. Mariscal; the Department's telegram communicated to him; the work stopped with the consent of the Mexican Government; claim of Mr. Mariscal that no dam, but a breakwater, was being constructed; a statement of the Mexican side of the question promised; sending of engineers to examine the work agreed upon, and Mr. Romero telegraphed to confer on the subject. | 1242 |
| 823 | Same to same (No. 188)..... | Nov. 16 | Extradition of Shields and Wilson: No request made the governor of Coahuila for the surrender of the prisoners; Mr. Mariscal to Mr. Whitehouse inclosed. | 1243 |
| 824 | Same to same (No. 190)..... | Nov. 16 | Wing-dams on the Rio Grande: Copy of telegram to the Mexican Government from the Mexican consul at El Paso and note from Mr. Mariscal inclosed. | 1244 |
| 825 | Mr. Bayard to Mr. Whitehouse (telegram). | Nov. 17 | Wing-dams on the Rio Grande: Maj. Oswald H. Ernst detailed to visit El Paso; will start Monday; gratification at Mexican co-operation to be expressed and facilities asked for Major Ernst. | 1245 |
| 826 | Mr. Whitehouse to Mr. Bayard (No. 194). | Nov. 19 | Wing-dams on the Rio Grande: Mr. Mariscal notified of Major Ernst's appointment, and the appointment of an engineer by the Mexican Government, to co-operate, requested; note to Mr. Mariscal inclosed. | 1245 |
| 827 | Same to same (No. 195)..... | Nov. 20 | Wing-dams on the Rio Grande: Mr. Mariscal requests the department of public works to appoint an engineer to co-operate with Major Ernst, and to afford the latter necessary facilities; note of Mr. Mariscal and Mr. Whitehouse's reply inclosed. | 1246 |
| 828 | Mr. Bayard to Mr. Bragg (No. 170). | Nov. 22 | Extradition of Shields and Wilson: Mr. Bragg's course approved; the Department embarrassed in dealing with the case by the informality of the proceedings in this country; Marshal Rankin thought to have been in Mexico; the offense committed by the men being against Federal law their extradition can not be requested by the governor of Texas. | 1247 |

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| 829 | Mr. Bayard to Mr. Whitehouse (telegram). | Dec. 1 | Re-election of President Diaz: Congratulations of the President to President Diaz. | 1247 |
| 830 | Mr. Whitehouse to Mr. Bayard (telegram). | Dec. 8 | Re-election of President Diaz: He returns thanks for the President's congratulations. | 1247 |


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| | | 1887. | | |
| 831 | Mr. Romero to Mr. Bayard.. | Oct. 22 | Quarantine of ninety days in Arizona Territory against Mexican cattle: Petition from inhabitants of Sonora; the quarantine considered a prohibition against Mexican cattle, as there is no disease among them and no foreign cattle are imported into Arizona. | 1248 |
| 832 | Same to same..... | Oct. 29 | Murder of Leon Baldwin: The newspaper report communicated to the Mexican Government; answer stating that an investigation by the judge at Ventana had been ordered, but that the murderers had been killed by citizens. | 1248 |
| 833 | Same to same..... | Nov. 1 | Horses claimed by Colonel Cowart to belong to the United States delivered to him; personal bond given by the political chief of the canton of Paso del Norte to secure their delivery. | 1249 |
| 834 | Same to same..... | Nov. 2 | Murder of Leon Baldwin: Newspaper account of the insecurity which prevailed in Durango when infested by Beural's band and of the killing of the outlaws, inclosed. | 1250 |
| 835 | Same to same..... | Nov. 4 | Murder of Leon Baldwin: Copy of report of the governor of Durango, showing that immediate measures were taken for the apprehension and punishment of the murderers, inclosed. | 1250 |
| 836 | Same to same..... | Nov. 16 | Quarantine against Mexican cattle may give rise to reprisals on the commerce of the United States, and is not in accordance with the Senate resolution for the passage of cattle across the frontier. | 1252 |
| 837 | Mr. Bayard to Señor Romero. | Nov. 21 | Quarantine against American cattle: Note in regard to retaliatory measures received; copy sent to the Secretary of Interior for report; objection based on Senate resolution of March 5, 1886; negotiations in accordance with that resolution proposed and favorably considered by Mr. Mariscal, but nothing done; the resolution in regard to strayed cattle, not commercial importations; copy inclosed. | 1252 |
| 838 | Mr. Romero to Mr. Bayard.. | Nov. 26 | Case of Manuel Mejia, imprisoned by the deputy sheriff at Phœnix, Ariz., without warrant and in disregard of the orders of the district attorney to release him, and ill-treated by the residents of the town; these persons acquitted in disregard of justice; instructed to know what has been done by the Department in accordance with its promise to consider the case. | 1253 |
| 839 | Same to same..... | Nov. 28 | Murder of Leon Baldwin: One of the murderers of Mr. Baldwin had been killed and the other was being closely pursued. | 1254 |
| 840 | Same to same..... | Dec. 6 | Drain-pipe at El Paso: Complaint by the municipal board of Paso del Norte that the drain-pipe is a menace to the health of that city; the pipe to pass through lands belonging to Mexican territory, though on the left bank of the river; the contention that the Rio Grande, being an international river, there is no right for the construction on one side of works which will be injurious to the health of the inhabitants of the other; danger feared from the filth emptied into the river from the drain-pipe; the prevention of the accomplishment of the plan requested. | 1254 |
| 841 | Mr. Bayard to Mr Romero... | Dec. 7 | Quarantine against Mexican cattle: Letter from Secretary of the Interior stating that the proclamation was issued in accordance with an act of the Territorial legislature, but there being a doubt as to its constitutionality the quarantine has been raised; the substance of the Arizona quarantine statutes reported by the governor. | 1255 |

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| 842 | Mr. Romero to Mr. Bayard.. | Dec. 9 | Imprisonment of James Burnett: The report sent this Department communicated to the Mexican Government and the governor of Chihuahua; correct statement from the governor of Chihuahua; no reply from the Mexican Government; exaggerated reports sent newspapers; letter of the governor of Chihuahua inclosed. | 1256 |
| 843 | Mr. Romero to Mr. Bayard.. | Dec. 12 | Imprisonment of James Burnett: Interview with Mr. Bayard telegraphed to Mr. Mariscal; Mr. Mariscal's reply inclosed. | 1257 |
| | | 1888. | | |
| 844 | Same to same..... | Jan. 4 | Imprisonment of James Burnett: Decisions of the circuit court of Chihuahua, sustaining the district judge in suspending proceedings against Burnett and releasing him unconditionally, inclosed. | 1258 |
| 845 | Mr. Bayard to Mr. Romero.. | Jan. 6 | Quarantine against Mexican cattle: Due to the absence of all sanitary restrictions against diseased cattle; quarantine also declared against State of Missouri; no discrimination; measures on the part of Mexico to prevent the importation of disease from abroad and eradicate it at home would be re-assuring; report of the chairman of the Arizona live-stock commission inclosed. | 1259 |
| 846 | Mr. Romero to Mr. Bayard.. | Jan. 7 | Case of the *Monserrat:* The *Monserrat* sentenced at San Diego to pay $1 per ton additional tonnage for want of papers; papers lost accidentally and orders given to have them duly replaced. | 1261 |
| 847 | Same to same..... | Jan. 9 | Quarantine against Mexican cattle: Mr. Bayard's note inclosing report of Mr. Bruce, stating that the quarantine was to prevent the importation of diseased cattle through Mexico, communicated to the Mexican Government for necessary measures; Mexico not an importer of cattle, except for breeding and cattle free from disease. | 1261 |
| 848 | Mr. Bayard to Mr. Romero.. | Jan. 11 | Case of the *Monserrat:* Mr. Romero's note in regard to the fine imposed on the *Monserrat* for a defect in her papers stated to have been duly authenticated, but lost, received, and copy sent to the Secretary of the Treasury. | 1262 |
| 849 | Same to same..... | Jan. 23 | Quarantine against Mexican cattle: The Mexican system of sanitary inspection of native and imported cattle requested; regulations in regard to cattle diseases under the State governments, and precautionary measures necessary to prevent their evasion by transit through Mexican territory. | 1262 |
| 850 | Same to same..... | Jan. 23 | Case of the *Monserrat:* The duty collected not a fine for failure to produce papers, but the same which is levied on the vessels of all foreign nations who have not acquired rights by treaty or law; no reason for exempting the *Monserrat*. | 1263 |
| 851 | Mr. Romero to Mr. Bayard.. | Jan. 26 | Case of the *Monserrat:* The collection of $1 a ton should be levied on all, if any foreign vessels in United States ports; it is a violation of the shipping act of 1884; the Secretary of the Treasury can return the amount illegally collected. | 1263 |
| 852 | Mr. Bayard to Mr. Romero.. | Feb. 10 | Drain-pipe at El Paso: The injury resulting from it to the residents of Paso del Norte not apparent; letter of Governor Ross and report of District Attorney Dean inclosed. | 1264 |
| 853 | Mr. Romero to Mr. Bayard.. | Feb. 10 | Free Zone: Belief in the United States that the establishment of the Free Zone was an act antagonistic to the United States, and to encourage smuggling; history of the Free Zone; its establishment an act of necessity; Mexico a worse sufferer than the United States from smuggling by the inhabitants of the Zone; American goods imported free of duty; Mr. Romero opposed to the existence of the Zone; legislation in regard to it; decree of the governor of Tamaulipas, establishing the Zone, law of the Federal Congress confirming the decree, regulations of the governor of Tamaulipas of 1860 and of the Federal Congress of 1878 inclosed. | 1266 |

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| 854 | Mr. Romero to Mr. Bayard. | Feb. 11 | Drain-pipe at El Paso: Note from this Department, inclosing the report of Mr. Dean on drain-pipes, will be sent to Mr. Mariscal; Mr. Samaniego corrects the interview reporting him as not opposing the laying of the pipe. | 1282 |
| 855 | Same to same..... | Feb. 14 | Free Zone established in imitation of the United States to prevent smuggling of goods shipped in bond to the border United States towns; its continuance due to the prosperity of the zone consequent upon the civil war in the United States, but which was attributed to the Free Zone. | 1282 |
| 856 | Mr. Bayard to Mr. Romero. | Feb. 21 | Free Zone: Mr. Romero's communications not considered an invitation to discuss the matter; an opportunity offered for making public his letters by a resolution of the Senate calling for unpublished correspondence in regard to the Free Zone; Mr. Romero's wish as to their publication asked. | 1283 |
| 857 | Mr. Romero to Mr. Bayard. | Feb. 22 | Free Zone: No diplomatic questions between the two countries in regard to it, and their writing voluntary, to remove any misconceptions in regard to the reason of the existence of the zone; no objection to the publication of the communications. | 1284 |
| 858 | Same to same..... | Mar. 2 | Duty on tobacco: The decision of the Treasury making the leaf the unit of taxation believed to be contrary to the tariff laws and detrimental to commerce between Mexico and the United States. | 1285 |
| 859 | Same to same..... | Mar. 13 | Case of the *Monserrat:* No higher tonnage dues levied in Mexican ports on vessels of the United States than on those of other nations, and no ground for the belief that there is any discrimination. | 1286 |
| 860 | Same to same..... | Mar. 19 | Crossing of cattle over the boundary: Mr. Barrera's calves having strayed into United States territory to graze, seized and bond for import duties on them exacted; measures necessary to meet such cases; resolution introduced in the Senate to exempt from duty cattle that had strayed into Mexican territory; provision suggested that Mexican cattle straying into the United States be exempted also. | 1286 |
| 861 | Same to same..... | Mar. 19 | Arrest at Janos of three sheriffs of Arizona Territory and two Papago Indians, pursuing three American bandits who had taken refuge in Mexican territory, because they had no permit from the Mexican Government: Their subsequent release, their arms being taken from them by order of the President of Mexico; their arms will be delivered to any one appointed to receive them. | 1287 |
| 862 | Mr. Bayard to Mr. Romero. | Mar. 20 | Case of the *Monserrat:* The Secretary of the Treasury states the tonnage tax of $1 per ton to have been properly collected under sections 4219 and 4225 of the Revised Statutes of the United States; these sections not repealed by the act of June 26, 1884; the effect of that act. | 1288 |
| 863 | Same to same..... | Mar. 23 | Arrest of three United States sheriffs and two Indians at Janos: Señor Romero's note stating that they had been released and their arms retained for delivery to the Government of the United States received; information previously received and report awaited; copies of the note will be sent to governor of Arizona and the Attorney-General. | 1288 |
| 864 | Same to same..... | Mar. 24 | Crossing of cattle over the boundary: Copy of note in regard to the calves of Señor Barrera sent to the Secretary of the Treasury, to show absence of intent to evade the law; a favorable decision would be facilitated by the assurances of reciprocal action on the part of Mexico; the recommendation that arrangements be made between the countries and modification of the bill in Congress to include strayed Mexican cattle; copy of note will be communicated to Committee on Finance; assurances of reciprocity desired; willing to compare views in regard to the Senate resolution of May 6, 1886; reciprocal agreement for the restoration of strays necessary, which may be in the form of a diplomatic understanding or formal protocol. | 1289 |

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| | | 1888. | | |
| 865 | Mr. Romero to Mr. Bayard. | Mar. 25 | Crossing of cattle over the boundary: Approval of the suggestion in regard to restoration of strayed cattle by Mr. Bayard; cattle imported into Mexico not subject to duty and the difficulties complained of not liable to occur; views mutually in accord; Mr. Bayard's note will be communicated to the Mexican Government with a request for instructions. | 1290 |
| 866 | Mr. Bayard to Mr. Romero.. | Mar. 30 | Case of the *Monserrat:* No higher charges on United States vessels than those of other nations in Mexico, and no discriminatory duties; the United States laws in regard to discriminatory duties apply to duties levied on national as well as foreign vessels, found in section 4225; its provisions; the proclamation in regard to Spanish vessels and cargoes the last under this act. | 1291 |
| 867 | Same to same..... | Mar. 30 | Duty on Mexican tobacco: The complaint that adopting the leaf instead of the "hand" unit increases illegally the duty on Mexican tobacco; decision of the Treasury Department that it is according to statute; no discrimination intended; tariff revision pending in Congress. | 1292 |
| 868 | Mr. Romero to Mr. Bayard.. | Apr. 11 | Arrest of United States sheriffs and posse at Janos: Their arms and horses will be delivered to the person appointed by the United States Government to receive them. | 1292 |
| 869 | Mr. Bayard to Mr. Romero.. | Apr. 16 | Claim of J. Escober y Armendaris to land in New Mexico: The grant acted upon by the surveyor-general of Mexico and his recommendation transmitted to Congress, where it now is; a survey under the circumstances improper; the report of the surveyor-general properly transmitted to Congress; report of acting Commissioner of the Land Office inclosed. | 1294 |
| 870 | Mr. Romero to Mr. Bayard. | Apr. 28 | Crossing of cattle over the boundary: Authorized to submit to the United States Government a draught of an arrangement for the crossing of cattle over the boundary; the Department's views requested; draught inclosed. | 1296 |
| 871 | Mr. Bayard to Mr. Romero.. | May 18 | Crossing of cattle over the boundary: No objection to the draught of a convention, unless to Article III, in regard grazing cattle across the frontier, and Article VI; Article III should require the value of the cattle to be assessed when imported and bond given for their exportation in six months; Article VI should require other satisfactory proof in addition to the certificate; a bill to restore strayed cattle on proofs of ownership approved by the Secretary of the Treasury, and amendment to that end suggested; his views concurred in by the Department. | 1298 |
| 872 | Mr. Romero to Mr. Bayard | May 19 | Crossing of cattle over the boundary: Will accept the additions proposed to the agreement regulating the crossing of cattle over the frontier and sign it; draught of agreement, with the changes suggested, inclosed. | 1299 |
| 873 | Mr. Bayard to Mr. Romero .. | May 22 | Arrest of sheriffs and posse at Janos: Mr. Lindberg appointed to receive the horses; requests that the Mexican authorities be telegraphed. | 1300 |
| 874 | Mr. Romero to Mr. Bayard.. | May 23 | Arrest of United States marshals and posse at Janos: Their arms and two horses will be delivered to Mr. Lindberg; the third horse having died, will be paid for if its death was due to neglect. | 1300 |
| 875 | Mr. Bayard to Mr. Romero... | May 28 | Arrest of sheriffs and posse at Janos: Note stating that two horses would be delivered to Mr. Lindberg, and offering to pay for the third if it died from neglect, received; Mr. Lindberg informed; the horses to be admitted free of duty. | 1301 |
| 876 | Same to same..... | June 4 | Arrest of Manual Mejia: Genning and Bryant acquitted of the charge; Governor Zulich's assurance of justice and protection to all; the governor's letter inclosed. | 1301 |
| 877 | Mr. Romero to Mr. Bayard.. | July 3 | Claim of J. Escobar y Armendaris to land in New Mexico: The petition of Armendaris shows that the grant was valid, asks confirmation and a resurvey; the validity of the grant acknowledged by Mr. Atkinson, denied by Mr. Julian, owing to a mistake in interpreting the "archives of Mexico" to mean those of the City of | 1303 |

CORRESPONDENCE WITH THE LEGATION OF MEXICO AT WASHINGTON—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 877 | Mr. Romero to Mr. Bayard—Continued. | 1888. July 3 | Mexico; probability of the authorization of provincial authorities to grant title to land, in which case the records would be kept in the provinces; the records of the State of Chihuahua destroyed in 1846–'47; the stipulation in regard to record proof to prevent fraudulent acquisition of land. The Garcia family in possession a century, and the grant confirmed by the Mexican Government; the claimant liable to be deprived of a hearing by the refusal of the Interior Department to lay the papers before Congress; requests the good offices of the Department of State; a resurvey not necessary at present; general reflections upon the titles to land in the United States by Mexican grants and the laws and treaties on the subject. | |
| 878 | Same to same..... | July 19 | Claim for sheep of Toribio Lozano and murder of Mexican shepherds: He established in Nueces County, Tex., a sheep ranch in 1861; his sheep dispersed and seven shepherds killed in 1873; complaint made but no action taken to punish the murderers by the authorities; claim for indemnity made in 1875; responsibility denied by the Secretary of State; correspondence on the subject; demand for indemnity renewed. | 1306 |
| 879 | Mr. Bayard to Mr. Romero | Aug. 13 | Claim for sheep of T. Lozano and murder of Mexican shepherds: Claim presented in 1875 by the Mexican legation and refused by Mr. Fish; no further correspondence till the present; the position of the Department unchanged. | 1308 |
| 880 | Mr. Romero to Mr. Bayard.. | Aug. 13 | Extradition of Paulino Preciado: Instructed to complain of the action of the judge of Cameron County, Tex., and request Preciado's extradition; statement of the case; the examination before the judge of Cameron County; allegation by Preciado that the proof was insufficient and the extradition documents irregular, as Mr. Sutton did not state that he was the principal consular officer of the United States; discharged on these grounds; provisions of the treaty in regard to extradition; these conditions complied with and proof sufficient; no higher United States consular officer than consul-general in Mexico, and that point of irregularity therefore not tenable; full and exclusive jurisdiction of the case in the Mexican courts, and no power in the judge of Cameron County to acquit Preciado of the crime. | 1308 |
| 881 | Mr. Bayard to Mr. Cayetano Romero. | Aug. 29 | Extradition of Paulino Preciado: Denial by Mr. Romero of the insufficiency of proof and irregularity of the certification, and of the right of the Texas judge to acquit Preciado of the charge; the duty of the judge merely to determine the question of proper surrender; a recommendation asked from the Department to the governor of Texas for Preciado's surrender in 1887, and the inability of the Department, in view of the previous application to the State of Texas, to make this recommendation stated in reply; provisions of the treaty of 1861; the Department had no power to interfere in nor to review the proceedings; new application will receive attention. | 1315 |

## NETHERLANDS.

| | | | | |
|---|---|---|---|---|
| 882 | Mr. Bell to Mr. Bayard (No. 282). | 1887. Aug. 24 | Enrollment of E. R. Connell for military service at Batavia: His permanent establishment there a question of fact; the matter referred to the Department; letter of the minister of foreign affairs for the Netherlands, covering the report upon the subject from the lieutenant-colonel commanding the "schuttery" at Batavia, inclosed. | 1318 |
| 883 | Same to same (No. 284) ..... | Dec. 13 | Revised constitution adopted: Important modifications of the constitution of 1848. | 1321 |

## NETHERLANDS—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1887. | | |
| 884 | Mr. Bell to Mr. Bayard (No. 286). | Dec. 16 | Neutrality of the Suez Canal: Reply of the minister of foreign affairs to questions on the subject that there was no convention, but a project to insure the neutrality of the canal agreed upon by France and Germany, which had been submitted for the consideration of the powers, and was acceptable to the Dutch Government; provisions of the projected convention. | 1322 |
| 885 | Same to same (No. 288) ..... | Dec. 21 | Law regulating the work of children proposed by the Dutch Government: Provisions of the law. | 1323 |
| 886 | Same to same (No. 289) ..... | Dec. 23 | Naturalization can only be secured in the Netherlands by special law: Conditions requisite for obtaining it; how it is forfeited. | 1323 |
| | | 1888. | | |
| 887 | Mr. Bayard to Mr. Bell (No. 113). | Feb. 3 | Enrollment of E. R. Connell in the "schuttery" at Batavia: Mr. Bell's No. 262 communicated to Mr. Connell for explanation of conflicting allegations; his answer; the question is whether the local Batavian law is according to international usage; the "schuttery" a corps in which all residents are compulsorily enrolled, and besides defending Batavia, obliged to serve in neighboring provinces; foreigners temporarily resident in a country not subject to its permanent military service by international law; police and defensive service may be exacted; such reasons not apparent in this case; residence of Americans abroad encouraged; expulsion of them by Dutch Government inhospitable; the position of Mr. Connell not exceptional; desire to protect Americans and encourage good understanding with the Netherlands; Mr. Peis to Governer Porter, Mr. Connell to Mr. Peis, extract from the London and China Express and Mr. Hatfield to Mr. Connell inclosed. | 1324 |
| 888 | Mr. Bell to Mr. Bayard (No. 300). | Mar. 3 | Enrollment of E. R. Connell for military services at Batavia: Refusal of the minister of the Netherlands to examine the law compelling Mr. Connell's enrollment with a view to its modification, on the ground that it is not contrary to international law, as the services are merely of a police nature and not in the regular military service of the country; a similar law in the Netherlands; the "schuttery" system economical; illogical position of the Government of the Netherlands. | 1329 |
| 889 | Mr. Bayard to Mr. Bell (No. 118). | Mar. 26 | Enrollment of E. R. Connell in the "schuttery" at Batavia: The anomaly of the position of the Dutch Government pointed out by Mr. Bell; willing to let the question rest, as the practical basis of complaint has been withdrawn, until revived by an actual case, without assenting to the Dutch position. | 1330 |
| 890 | Mr. Bayard to Mr. Roosevelt (No. 24). | Sept. 28 | Pork, prohibition of importation of: American pork to be secured the same facilities as that from other countries; Consul Eckstein's No. 709 inclosed. | 1330 |
| 891 | Mr. Roosevelt to Mr. Bayard (No. 23). | Sept. 28 | Pork, American, refused admission, although certified to come from a place free from disease: The case communicated to the minister of foreign affairs; copies of letter of Mr. James Hector, the certificate accompanying the shipment, and Mr. Roosevelt's note on the subject to the minister of foreign affairs inclosed. | 1331 |
| 892 | Same to same (No. 34) ..... | Oct. 6 | Passports: Can diplomatic officers modify the forms of passports? Many American citizens left unprotected by the new forms. | 1332 |
| 893 | Mr. Rives to Mr. Roosevelt (No. 25). | Oct. 9 | Pork: Mr. Roosevelt's action in bringing to the attention of the Government of the Netherlands the complaint of James Hector of the exclusion of American pork, certified to be from a place free from diseases; approved; further report awaited. | 1333 |
| 894 | Mr. Roosevelt to Mr. Bayard (No. 36). | Oct. 11. | Pork: Copy of Mr. Roosevelt's notes to the minister of foreign affairs in regard to the exclusion of American pork from the Netherlands inclosed. | 1333 |
| 895 | Same to same (No. 37) ..... | Oct. 20 | Pork: Reason to believe that the forms requisite had not been complied with in the case of the shipment of American pork which the railroads refused to carry, and Mr. Hector so informed; no further action taken. | 1334 |

## THE NETHERLANDS—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 896 | Mr. Roosevelt to Mr. Bayard (No. 38). | 1888. Oct. 20 | Pork: Request for personal interview on exclusion of American pork will not be pressed; copies of the regulations of 1883 governing the importation of pork, and those lately adopted inclosed. | 1334 |
| 897 | Mr. Rives to Mr. Roosevelt (No. 30). | Oct. 22 | Passports: General instructions for the modification of forms of passports can not be given; slight changes may be made to suit particular cases, but no discretion can be used as to the fundamental requirements of law and fact; doubtful cases to be reported fully to the Department. | 1336 |


## CORRESPONDENCE WITH THE LEGATION OF THE NETHERLANDS AT WASHINGTON.


| | | | | |
|---|---|---|---|---|
| 898 | Mr. de Weckherlin to Mr. Bayard. | 1887. Nov. 16 | Emigration of Belgian soldiers: Soldiers on leave shipped on foreign vessels to avoid service; probability that the documents required by law governing emigration are not demanded by United States consuls; requests instructions to the consuls. | 1337 |
| 899 | Mr. Bayard to Mr. de Weckherlin. | 1888. Feb. 6 | Emigration of Belgian soldiers: The functions of consuls prescribed by statute; the instruction requested to be given United States consuls in Belgium would make them *pro tanto* quasi-judicial officers of the Belgian Government, and therefore can not be given. | 1337 |
| 900 | Mr. de Weckherlin to Mr. Bayard. | Mar. 17 | Citizenship of Alexander Menist: Requests to know his status under the laws of the United States. He was born in the United States, his father being a naturalized citizen, but returned to live in the Netherlands in 1878 and wishes to enter the Belgian militia; copy of register of his birth of the naturalization of his father under the name of Alexander, and affidavit of identity of Alexander and Menist inclosed. | 1338 |
| 901 | Mr. Bayard to Mr. de Weckherlin. | Apr. 7 | Citizenship of Alexander Menist: The Department can not decide in this particular case, but a naturalized citizen may renounce his allegiance by returning to his native country, *animo manendi*; his son born in the United States partakes of his father's domicile, until he become *sui juris*, when he may elect to claim citizenship in his native country. | 1341 |
| 902 | Mr. de Weckherlin to Mr. Bayard. | May 9 | Tonnage dues levied on the *Prins Maurits*, a steamer of a new regular line from the Netherlands to the United States via Guiana and the West Indies, claimed by Messrs. Kunhardt & Co. to be in violation of the proclamation of the President suspending such dues on vessels coming from Dutch ports, and return of the duty of 6 cents per ton collected requested. | 1341 |
| 903 | Same to same ..... | May 23 | Tonnage dues levied on the *Scheidam* and *Leerdam*, of the Netherlands-American Steam Navigation Company running directly from the Netherlands to New York, because those vessels stopped at Plymouth to receive the cargo and passengers of the disabled steamer *P. Caland*; the return asked of the duty of 6 cents per ton collected. | 1342 |
| 904 | Mr. Bayard to Mr. de Weckherlin. | June 6 | Tonnage dues levied on the *Prins Maurits*: Letter from the Secretary of the Treasury on the subject inclosed. | 1343 |
| 905 | Same to same ..... | June 18 | Tonnage dues levied on the *Scheidam* and *Leerdam* will be returned; decision of the commissioner of navigation. | 1344 |


## CORRESPONDENCE WITH THE LEGATION OF NICARAGUA AT WASHINGTON.


| | | | | |
|---|---|---|---|---|
| 906 | Mr. Guzman to Mr. Bayard | 1888. Mar. 25 | Boundary treaty between Nicaragua and Costa Rica: expresses the thanks of his Government to the President of the United States for acting as arbitrator. | 1345 |

## PARAGUAY.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 907 | Mr. Bacon to Mr. Bayard (No. 198). | 1887. Oct. 19 | Claim of the United States and Paraguayan Navigation Company: The protocol for its settlement rejected by the Paraguayan Congress; status of the claim; history of the case; copy of note of October 14, 1887, of Mr. Cañate inclosed. | 1246 |
| 908 | Mr. Bayard to Mr. Bacon (No. 85). | 1888. Mar. 2 | Claim of the United States and Paraguayan Navigation Company: Demand for settlement to be renewed; interest since August 9, 1881, to be added to the sum asked. | 1354 |
| 909 | Mr. Bacon to Mr. Bayard (No. 225). | May 28 | Claim of the United States and Paraguayan Navigation Company: Resignation of Mr. Decoud, minister for foreign affairs, owing to opposition to the claim, and its subsequent withdrawal; new protocol for a settlement signed; hostility of the press; copy of protocol inclosed. | 1355 |
| 910 | Mr. Bayard to Mr. Bacon (No. 97). | July 25 | Claim of the United States and Paraguayan Navigation Company: Mr. Bacon's action in regard to the claim and in denying the newspaper reports approved. | 1356 |
| 911 | Mr. Bacon to Mr. Bayard (No. 257). | Oct. 17 | "Chaco" limits, dispute in regard to the, has resulted in open rupture between Paraguay and Bolivia: Particulars of the disturbance; the papers of Paraguay consider its claim indisputable and expect no war; nature and value of the "Chaco." | 1357 |


## PERSIA.


| | | | | |
|---|---|---|---|---|
| 912 | Mr. Pratt to Mr. Bayard (No. 170). | 1888. Jan. 10 | American enterprises desired in Persia: Interview with the minister of interior on the subject. | 1359 |
| 913 | Same to same (No. 185) ..... | Feb. 6 | American engineers and geologists wanted in Persia. | 1359 |
| 914 | Same to same (No. 237) ..... | May 27 | Imperial firman: guarantying life and property inclosed. | 1360 |
| 915 | Same to same (No. 252) ..... | June 23 | Persian minister about to start for America: Honors requested to be paid him on his arrival. | 1361 |
| 916 | Same to same (No. 254) ..... | July 3 | Persian minister to the United States Hodji Hossein Kouli Khan Motamed-el Vésaré, appointed envoy extraordinary and minister plenipotentiary; copies of the official announcement of his appointment and Mr. Pratt's reply inclosed. | 1361 |
| 917 | Same to same (No. 275) ..... | Aug. 28 | Massacre of Christians in Tiary and Tehoman threatened: Americans warned to avoid those neighborhoods; action of the British minister; copies telegrams from the British consul at Tabriz announcing the threatened trouble, and L. H. Drumond Wolf's note covering it to Mr. Pratt inclosed. | 1362 |
| 918 | Same to same (No. 282) ..... | Sept. 12 | Massacre of Christians: Letter from Rev. F. G. Cohn to Rev. I. H. Shedd, giving an account of the disturbance inclosed. | 1363 |
| 919 | Same to same (No. 291) ..... | Sept. 28 | Railroads: A concession to be asked of the Shah to connect the cities of Koum, Teheran, and Cassine by a railroad, with the privilege of extending it to the Caspian Sea and Persian Gulf. | 1364 |
| 920 | Mr. Bayard to Mr. Pratt (No. 144). | Oct. 4 | Persian minister: His arrival and introduction to the President. | 1365 |


## PERU.


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|---|---|---|---|---|
| 921 | Mr. Buck to Mr. Bayard (No. 376). | 1888. May 24 | Claim of V. H. MacCord for outrages perpetrated against him by the Government of Peru in 1885: The papers presented for the first time; the reasons for the delay, *i. e.*, to avoid injuring his business interests in Peru which continued | 1366 |

## PERU—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 921 | Mr. Buck to Mr. Bayard (No. 376)—Continued. | 1888. May 24 | until the seizure of the railroads by the Peruvian Government; Mr. MacCord was at the time and is United States consular agent, but his resignation tendered before the cause of complaint occurred; letter from Mr. Gibbs to Mr. MacCord, from Mr. MacCord to Mr. Buck, and the protest of Mr. MacCord inclosed. | |
| 922 | Mr. Rives to Mr. Buck (No. 208). | June 23 | Claim of V. H. MacCord: Review of the facts in the case; Mr. MacCord's explanation of the facts satisfactory, and an explanation to be asked of the Peruvian Government. | 1369 |
| 923 | Mr. Bayard to Mr. Buck (No. 224). | Aug. 14 | Claim of V. H. MacCord: Letter of S. N. Pettis in regard to MacCord's complaint inclosed. | 1370 |
| 924 | Mr. Buck to Mr. Bayard (No. 418). | Aug. 29 | Claim of V. H. MacCord: Note from the Peruvian foreign office, stating the impossibility of ascertaining the facts after so long a time; that MacCord only made the complaint when removed from his position, and in the interval good relations had subsisted between him and San Roman; that this can not be made a diplomatic question after so long a silence; that the Government is not responsible, as it was the act of one in rebellion; the only recourse for MacCord through the courts; the information asked can not be given. | 1370 |
| 925 | Same to same (No. 420) ..... | Sept. 7 | Claim of V. H. MacCord: Another note presenting the claim at length sent to the Peruvian foreign office; Minister Denegri interrogated in regard to this matter in the Senate; the notes of the Peruvian foreign office, Mr. Buck's reply, and the interrogation of the Peruvian minister in the Senate inclosed. | 1371 |
| 926 | Mr. Rives to Mr. Buck (No. 232). | Oct. 8 | Claim of V. H. MacCord: Mr. Buck's note generally approved by the Department, but its statements as to the liability of a government for the acts of insurgents and mobs should be qualified; a government not strictly accountable for the violence of mobs; the Chinese indemnity an act of generosity, not of obligation; the same position held relative to the attack on the Spanish consulate at New Orleans in 1850; contrariety in previous opinions of the Department as to liability for acts of insurgents; the United States denied its responsibility for the destruction of a Peruvian vessel in Chesapeake Bay in 1862, which Peru claimed; letter from Mr. Pettis, with accompanying papers, inclosed. | 1377 |

## PORTUGAL.

| | | | | |
|---|---|---|---|---|
| 927 | Mr. Bayard to Mr. Lewis (No. 68). | 1887. Dec. 7 | Discrimination against the direct trade of the United States with the Cape Verde Islands in favor of that through Lisbon: Complaint of Messrs. Butman & Co. that greater duties are levied on the direct importations from foreign countries; no discrimination of flag presumed and goods imported in American vessels by way of a Portuguese port entitled to the reduction of 30 per cent. that Portuguese vessels are; analogy to the coastwise trade; re-exportation of goods on which duty has been paid and of goods in bond, or with drawback, very different; the case complained of a discrimination against our home port; the flag of importance in the second case; a report to be made; letter of Mr. Butman inclosed. | 1381 |
| 928 | Same to same (No. 78) ..... | 1888. June 4 | Discrimination against the direct trade of the United States with the Cape Verde Islands in favor of that through Lisbon: The report called for in No. 68 desired as soon as possible. | 1384 |
| 929 | Mr. Lewis to Mr. Bayard... | July 7 | Discrimination against American direct trade in the Cape Verde Islands: The same duties levied on the trade of all nations; contemplated reduction from 30 to 20 per cent. | 1384 |

## PORTUGAL—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 930 | Mr. Wilbur to Mr. Bayard... | 1888. July 12 | Discrimination against American direct trade with the Cape Verde Islands: Mr. Lewis's note to Sen. Barros Gomez and reply of Sen. Gomez, with the treaties and decrees alluded to therein, inclosed. | 1385 |


### CORRESPONDENCE WITH THE LEGATION OF PORTUGAL AT WASHINGTON.


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|---|---|---|---|---|
| 931 | Viscount das Nogueiras to Mr. Bayard. | 1887. Sept. 22 | Supplies for war vessels: Desires to know whether provisions imported for foreign war vessels are free from duty, and whether by law or custom. | 1388 |
| 932 | Mr. Bayard to Viscount das Nogueiras. | Oct 21 | Supplies for war vessels of those countries which have reciprocal regulations admitted free. | 1388 |
| 933 | Viscount das Nogueiras to Mr. Bayard. | 1888. Jan. 10 | Protectorate over Dahomey: Object of the protectorate to increase European influence and stop human sacrifices; this purpose defeated by the refusal of the King of Dahomey to abide by the treaty, and the protectorate renounced. | 1389 |
| 934 | Mr. Bayard to Viscount das Nogueiras. | Jan. 18 | Protectorate over Dahomey: The announcement of the renunciation of it by Portugal received. | 1390 |
| 935 | Baron d'Almeirim to Mr. Bayard. | Mar. 23 | Industrial property convention: Copies of laws of the States and the act of 1881 relative to trade-marks requested, also information whether articles 8 to 12 of the convention, and 1 to 4 of the final protocol are executed in the United States, and whether the same usage is accorded to foreigners as to American citizens. | 1390 |
| 936 | Same to same..... | May 14 | Extradition of Maria da Luz Baptista, alias Mrs. Botelho, requested: No extradition treaty between Portugal and the United States; but the request based upon the desire of the United States and reciprocal action of Italy. | 1391 |
| 937 | Mr. Bayard to Baron d'Almeirim. | May 17 | Industrial property convention: Letter from the Secretary of the Interior covering a report to the Commissioner of Patents in regard to the construction placed by the United States upon certain articles of the convention, as requested by Baron d'Almeirim, inclosed. | 1391 |
| 938 | Same to same..... | June 4 | Extradition of Maria da Luz Baptista, alias Mrs. Botelho, can not be granted by the President as it is contrary to precedent where there is no extradition treaty; the act of Congress to prevent criminal immigration not a general extradition act. | 1394 |
| 939 | Baron d'Almeirim to Mr. Bayard. | June 30 | Blockade of Quissembo from the 12th instant declared. | 1394 |
| 940 | Mr. Bayard to Baron d'Almeirim. | July 3 | Blockade of Quissembo by the Government of Portugal, information thereof received. | 1395 |
| 941 | Baron d'Almeirim to Mr. Bayard. | Aug. 7 | Blockade of Quissembo raised on account of the submission of the revolting tribes. | 1395 |


## ROUMANIA.


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|---|---|---|---|---|
| 942 | Mr. Fearn to Mr. Bayard (No. 14). | 1888. Oct. 4 | Maneuvers of the Roumanian army at Ploesti to celebrate the anniversary of Plevna. | 1396 |


## RUSSIA.


| | | | | |
|---|---|---|---|---|
| 943 | Mr. Lothrop to Mr. Bayard (No. 145). | 1887. Oct. 6 | Petroleum product of Russia: Probability that American petroleum will be expelled from European markets; copy of article from the Journal de St. Petersburg inclosed. | 1397 |
| 944 | Same to same (No. 149)..... | Nov. 29 | Expulsion of Adolph Lipszyc: Review of the case; sentenced to expulsion from Russia; not permitted to communicate with the legation after trial; his sentence mild but will probably work forfeiture of his inheritance. | 1399 |

RUSSIA—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 945 | Mr. Lothrop to Mr. Bayard (No. 150). | 1887. Nov. 20 | Expulsion of Jews from Russia: The law strictly enforced; appeals from American Jews answered by the information that nothing could be done as long as there was no discrimination against Americans; the right to grant permission to remain is in certain of the ministry; application made to them in the case of Mr. Woldenberg; no answer received. | 1399 |
| 946 | Mr. Bayard to Mr Lothrop (No. 109). | 1888. Feb. 4 | Entry refused by Russian customs officers of American goods shipped by Mr. Linden, and described as surgical instruments and oil: Inquiries to be made. | 1400 |
| 947 | Mr. Lothrop to Mr. Bayard (No. 158). | Feb. 10 | Case of Isidore Albert: A petition to the Emperor for pardon sent to the legation; thinks Mr. Albert not a native American citizen, and that he took an oath of allegiance to Russia; no step will be taken without instructions; severity of the sentence; copy of Mr. Albert's letter and the reply to it inclosed. | 1401 |
| 948 | Same to same (No. 160) ..... | Feb. 22 | Exclusion of American medicines from Russia: Mr. Linden's case; no pharmaceutical preparations allowed to enter Russia unless examined and approved by the medical board or counsel of the Empire. | 1402 |
| 949 | Mr. Bayard to Mr. Lothrop (No. 114). | Mar. 1 | Case of Isidore Albert: He is a naturalized American citizen born in Russia, to which country he returned, entering the military service; his American citizenship apparently renounced, and proof of the opposite intention necessary before the Department can intervene to ask his pardon. | 1403 |
| 950 | Mr. Lothrop to Mr. Bayard (No. 163). | Mar. 7 | Railways: Their extent, private and public; not remunerative; the Transcaspian Railway; few new roads, and their building not favored owing to the financial condition of the country. | 1404 |
| 951 | Same to same (No. 168) .... | Mar. 31 | Extradition of Hercules A. Proios: Extradited by the Russian Government at the request of that of Turkey, on the charge of having stolen money from the Turkish Government in January, 1888; letter from Proios asking intervention, answered by request for information; telegram from Mr. Heenan; his demand for the release of Proios approved, but instructed to go no further and make a report; intervention can only go to the extent of seeing that proceedings are regular. | 1405 |
| 952 | Mr. Bayard to Mr. Lothrop (No. 120). | Apr. 17 | Extradition of H. A. Proios, who claims to be an American citizen, by the Russian Government to that of Turkey, on the charge of embezzlement while in the service of the Turkish Government: No ground for remonstrance appears from the facts known. | 1406 |
| 953 | Mr. Lothrop to Mr. Bayard (No. 176). | May 31 | Railways: Opening of the Transcaspian Railway to Samarcand; a road to the Pacific contemplated. | 1406 |
| 954 | Mr. Wurts to Mr. Bayard (No. 186). | July 13 | Railways: The railway to Samarcand; a road contemplated through Siberia to the Pacific Ocean; its military and commercial importance and assistance in colonizing Siberia; extract from the St. Petersburg Journal on the Samarcand road inclosed. | 1407 |
| 955 | Mr. Bayard to Mr. Wurts (No. 141). | Sept. 12 | Refusal to allow American whaling vessels to obtain supplies or repair in the Behring and Okotsk Seas except at Petropaulowski: The prevention of illicit liquor traffic assigned as the reason; whale fishing impossible under such a law, on account of the distance of Petropaulowski from the fishing grounds; the matter to be called to the attention of the Russian Government, with a view of securing American vessels protection when legitimately entering other harbors; letter of the Secretary of the Navy covering a notice of the above regulations inclosed. | 1410 |
| 956 | Same to same (No. 144) ..... | Sept. 25 | Rev. Mr. Easton refused a visa of his passport, or permission to pass through Russian territory: The permission to be obtained for him. | 1411 |

## RUSSIA—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 957 | Mr. Wurts to Mr. Bayard (No. 201). | 1888. Oct. 3 | Refusal to allow American whaling vessels to land in Behring or Okotsk Seas for supplies and repairs: Substance of instructions No. 141 in regard to, communicated to the Russian Government; copy of note to Russian minister inclosed. | 1413 |
| 958 | Same to same (No. 206) ..... | Oct. 29 | Novorossick: Opening of railway and harbor works; the report that the naval station at Sebastopol will be removed to Novorossick not credited; an exequatur refused to a United States consular agent; the exclusion of no importance to American commerce. | 1414 |
| 959 | Same to same (No. 213) ..... | Nov. 10 | The refusal of the Russian Government to let Mr. Easton pass through Russian territory due to previous attempts by him to convert Russians to Protestantism; correspondence with the Russian foreign office on the subject inclosed. | 1414 |


## CORRESPONDENCE WITH THE LEGATION OF RUSSIA AT WASHINGTON.


| | | | | |
|---|---|---|---|---|
| 960 | Baron Rosen to Mr. Bayard. | 1887. Nov. 7 | International Prison Congress: Protocol of the Berne congress and regulations for the commission, with an act interpreting them, which have been approved by all the governments to which they have been submitted except Spain, inclosed for the information of the United States. | 1416 |
| 961 | Mr. Bayard to Mr. de Struve. | Dec. 23 | International Prison Congress: The appointment of a delegate to the congress receiving the attention of congress, and information of the preliminary work necessary will be communicated to them. | 1416 |


## CORRESPONDENCE WITH THE MINISTER OF FOREIGN AFFAIRS OF SALVADOR.


| | | | | |
|---|---|---|---|---|
| 962 | Mr. Delgado to Mr. Bayard.. | 1888. Apr. 25 | Claim of Italy against Salvador: Expresses the thanks of his Government for the services rendered by Mr. Hall in effecting a compromise of the Italian claim. | 1417 |


## SANTO DOMINGO.


| | | | | |
|---|---|---|---|---|
| 963 | Mr. Thompson to Mr. Bayard (No. 19). | 1888. Jan. 30 | Claims of Mr. C. E. Frary and Mr. Arteaga: A personal visit to Santo Domingo necessary to insure action by that Government, instruction requested; Mr. Frary's claim $25,000, Mr. Arteaga's $26,000. | 1418 |
| 964 | Mr. Bayard to Mr. Thompson (No. 20). | Mar. 19 | Claim of C. E. Frary: Ten thousand dollars, payable in the foreign debt every sixty days, will be accepted in payment of Mr. Frary's claim. | 1418 |
| 965 | Mr. Thompson to Mr. Bayard (No. 21). | Mar. 30 | Claims of Mr. C. E. Frary and Mr. Arteaga: Interview with the minister of San Domingo; Mr. Frary's claim compromised for $10,000; negotiations in the case of Mr. Arteaga prevented by the reported death of President Salomon and disturbances in Hayti; return to Hayti; all quiet; note to Mr. Gautier inclosed. | 1419 |
| 966 | Mr. Bayard to Mr. Thompson (No. 23). | May 2 | Claims of Mr. C. E. Frary and Mr. Arteaga: Satisfaction of the Department at the conduct of the negotiations in the above cases; further information in Mr. Frary's claim desired; instruction if needed will be sent in regard to Mr. Arteaga's. | 1422 |
| 967 | Same to same (No. 26) ..... | July 6 | Passport for Mr. Morris Myerston: The facts reviewed; too imperfectly stated to decide the question. | 1422 |

## SERVIA.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 968 | Mr. Fearn to Mr. Bayard (No. 6). | 1887. Nov. 21 | Railway system from Constantinople to Salonica in process of construction. | 1424 |


## SIAM.


| | | | | |
|---|---|---|---|---|
| 969 | Mr. Child to Mr. Bayard (No. 43). | 1887. Sept. 22 | Trade-marks. A law to prevent the imitation of trade-marks much needed in Siam to protect American and other goods; objections to the proposed law advanced at a meeting of the consuls; a copy of the law and accompanying letter from the foreign office inclosed. | 1425 |
| 970 | Same to same (No. 56) ..... | 1888. Jan. 6 | Liquor law: The United States included among the most favored nation by the amended liquor law; the previous omission an oversight; the law so far inoperative. | 1427 |
| 971 | Same to same (No. 59) ..... | Feb. 18 | Railroads: The negotiations of a British syndicate for building roads in Siam a failure. | 1427 |
| 972 | Same to same (No. 60) ..... | Mar. 13 | Gold mines: Character of the Banta Phan mines; a concession of them to Chevalier Suzzatie for twenty-five years; a company organized with a capital of $1,250,000; a royalty of 12 per cent. of the profits to go to the Siamese Government; situation of the mines, etc. | 1427 |


## SPAIN.


| | | | | |
|---|---|---|---|---|
| 973 | Mr. Strobel to Mr. Bayard (No. 270). | 1887. Nov. 2 | Liability of Spaniards, naturalized citizens of other countries, to military services in Spain; the law antiquated, and comprising all obligations of citizenship; translation of law inclosed. | 1429 |
| 974 | Mr. Curry to Mr. Bayard (No. 279). | Nov. 19 | Discharged sailors: The certificate of the United States consul hereafter sufficient in the case of discharged or substituted sailors sent home, and visa of passports dispensed with; note of the foreign minister inclosed. | 1430 |
| 975 | Same to same (No. 281) ..... | Nov. 25 | Pork and lard: Translation of royal order in regard to inspection of imported pork and lard inclosed. | 1430 |
| 976 | Mr. Bayard to Mr. Curry (telegram). | Dec. 8 | Commercial agreement: The Spanish minister of foreign affairs willing to extend the agreement until June 30, 1888, and Mr. Curry instructed to sign a protocol extending it to that date. | 1431 |
| 977 | Mr. Curry to Mr. Bayard (No. 290). | Dec. 22 | Commercial agreement, prolonged until June 30, 1888. | 1431 |
| 978 | Mr. Bayard to Mr. Curry (No. 262). | 1888. Jan. 26 | Discriminatory duties: The *J. W. Parker* compelled to pay duty of $1 per ton on clearing from Zaza, when Spanish vessels pay 25 cents; repayment of excess of duties to be asked; papers in the case inclosed. | 1432 |
| 979 | Same to same (No. 266) ..... | Feb. 11 | Discriminatory dues collected from the *J. W. Parker*: Dispatch from the consul at Cienfugos in regard to the discriminatory duties imposed inclosed. | 1433 |
| 980 | Same to same (No. 271)..... | Feb. 28 | Discriminations against United States vessels practiced in the Spanish West Indies notwithstanding the commercial agreement; case of Spanish steamers making periodic trips to Spain and allowed to enter and clear, even to a foreign port, without paying duties; a Spanish sailing vessel on entering a Cuban from another Spanish port pays 37½ cents, and on clearing for the United States 25 cents; an American vessel pays at the rate of 67½ cents each time; a Spanish vessel entering a Cuban port from Puerto Rico in ballast, on clearing for the United States pays 25 cents, an American vessel pays 62½ cents; satisfactory proof of equality of treatment of American and Spanish vessels to be asked of the Spanish Government, and in default the President will have to rescind his proclamation; instruction to Consul-General Williams and his report on the matter inclosed. | 1435 |

## SPAIN—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 981 | Mr. Bayard to Mr. Curry (No. 272). | Feb. 28 | Discriminatory duties collected from the *Jeanie*: Copies of correspondence with Consul-General Williams inclosed. | 1445 |
| 982 | Mr. Curry to Mr. Bayard (No. 304). | Mar. 3 | Anniversary, four hundredth, of the discovery of America: Translation of royal decree embodying measures for its celebration inclosed. | 1448 |
| 983 | Mr. Bayard to Mr. Curry (No. 275). | Mar. 19 | Discriminatory dues collected on the *Jeanie*: The collector of customs at Cardenas will report the facts to the authorities at Matanzas and await their decision; copy of letter from the United States commercial agent at Cardenas, covering a letter to him from the collector of that port, inclosed. | 1449 |
| 984 | Same to same (No. 276)..... | Mar. 21 | Anniversary, four hundredth, of the discovery of America: Copy of the royal decree for its celebration at Madrid communicated to the Senate committee on the centennial of the Constitution and the discovery of America. | 1450 |
| 985 | Same to same (No. 279)..... | Apr. 2 | Discriminatory duties collected on the *Uranus* of 37 cents, where a Spanish vessel would pay 25; return of the excess of dues to be asked of the Spanish Government; copy of dispatch from United States consul at Cienfuegos inclosed. | 1450 |
| 986 | Same to same (No. 284)..... | Apr. 19 | Claim of Messrs. Calixto, Lopez & Co. for the refund of duties collected on a shipment of coffee from the United States at the fourth instead of the third column of rates of the *modus vivendi* of 1884; an attempt to be made to dispose of the claim; the essential point in it that a favor accorded to a Spanish was refused to an American vessel; copy of report of Consul-General Williams on the subject, with accompanying documents, inclosed. | 1452 |
| 987 | Mr. Curry to Mr. Bayard (No. 322). | May 22 | Resolution of the chambers congratulating the Queen on the ovation she received on her journey to the Barcelona exposition, and thanking foreign nations for sending squadrons to that port; popularity of the queen; the exposition participated in by all the European powers, and the United States ship *Quinnebaug* present. | 1465 |
| 988 | Mr. Curry to Mr. Bayard (No. 324). | May 26 | Commercial agreement prolonged until a more comprehensive one is made, or two months' notice is given by either party; approval of Department asked; note to the minister for foreign affairs and copy of agreement inclosed. | 1466 |
| 989 | Mr. Bayard to Mr. Curry (No. 298). | June 12 | Commercial agreement, signed with Mr. Moret, prolonging the *modus vivendi*, approved. | 1467 |
| 990 | Mr. Bayard to Mr. Strobel (No. 321). | Sept. 8 | Estate of General Featheringill, of the Spanish army, reported recently to have died in Spain: Mr. Sam. Prewett believes his wife to have a claim to the property; information to be sent to Mr. Prewett; copies of two letters from Mr. Prewett inclosed. | 1467 |
| 991 | Mr. Strobel to Mr. Bayard (No. 352). | Sept. 22 | Estate of General John Featheringill: Mr. Prewett's inquiry one of many in regard to this and other reputed fortunes, equally without foundation; reply to Mr. Prewett inclosed. | 1468 |
| 992 | Mr. Bayard to Mr. Strobel (No. 325). | Sept. 26 | Discriminatory duties collected from the *Jeanie* ordered to be returned; copy of dispatch from Consul-General Williams inclosed. | 1469 |


## CORRESPONDENCE WITH THE LEGATION OF SPAIN AT WASHINGTON.


| | | | | |
|---|---|---|---|---|
| | | 1888. | | |
| 993 | Mr. de Muruaga to Mr. Bayard. | Jan. 10 | Adulteration of wines and counterfeiting marks thereof: Measures to be put in practice to prevent adulteration of wines and the counterfeiting of marks, and an international congress at Madrid to be proposed for the same purpose; desires to know if the United States will be represented. | 1470 |
| 994 | Mr. Bayard to Mr. de Muruaga. | Jan. 19 | Adulteration of wines and counterfeiting of marks thereof: Action in the matter can not be taken except in accordance with the wishes of Congress; copy of Mr. de Muruaga's note sent to the Commissioner of Agriculture that his opinion may first be had on the subject. | 1470 |

CORRESPONDENCE WITH THE LEGATION OF SPAIN AT WASHINGTON—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 995 | Mr. Bayard to Mr. de Muruaga. | Mar. 17 | Adulterations of wines, etc.: The United States prepared to send representatives to the congress for the purpose of preventing adulteration and counterfeiting of wines, and the date and place of meeting requested. | 1471 |
| 996 | Mr. de Muruaga to Mr. Bayard. | May 1 | Filibustering expedition against Cuba being got ready by General Ruz at Key West: The collector of customs at that port informed of the fact, and authority asked by him of the Treasury Department of the United States to confiscate the munitions; measures necessary to effect this, prevent the expedition, and bring the offenders to justice, requested of the Government. | 1471 |
| 997 | Mr. Bayard to Mr. de Muruaga. | May 1 | Filibustering expedition against Cuba: Copies of Mr. de Muruaga's note in regard to the expedition sent to the Secretary of the Treasury and the Attorney-General; due complaint, under oath, by some one having knowledge of the facts advised. | 1472 |
| 998 | Same to same..... | May 5 | Filibustering expedition against Cuba: The collector of customs at Key West instructed to take prompt measures, and consult with the district attorney regarding the seizure of the arms and arrest of the filibusters; the officers of the Attorney-General's Department instructed to co-operate. | 1473 |


## SWEDEN AND NORWAY.


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|---|---|---|---|---|
| | | 1888. | | |
| 998 | Mr. Magee to Mr. Bayard (No. 110). | Jan. 16 | Pork: Importation of American pork into Sweden prohibited unless well salted and cured; presumption that similar action will be taken in Norway; prohibition due to information from Washington that American pork is infected with contagious diseases; disease among swine prevalent in Sweden and Norway, and efforts being made to eradicate it. | 1474 |
| 1000 | Mr. Bayard to Mr. Magee (No. 64). | Feb. 4 | Pork: No remonstrance to be made to the decree requiring American pork to be well salted and cured; ground for believing Mr. Anderson's report of Germany influencing Norway to exclude American pork to be true; American interests to be watched. | 1474 |
| 1001 | Mr. Magee to Mr. Bayard (No. 112). | Feb. 8 | Political: New ministry; protective tariff measures anticipated; the ministry not supported by the people. | 1475 |
| 1002 | Same to same (No. 114) .... | Feb. 11 | Railroads, information in regard to, requested of the Swedish Government road from Lulea to Ofsten to reach the iron ore there. | 1476 |
| 1003 | Same to same (No. 116)..... | Mar. 6 | Commercial relations of Sweden with the United States: The trade carried in foreign bottoms; advantages that would result if it was done by Swedish or American vessels. | 1477 |
| 1004 | Same to same (No. 117) .... | Mar. 11 | Pork: Its importation not prohibited by Norway; no representations on the subject made to the Swedish by the German Government; exclusion by Denmark of American pork in retaliation; disease in Sweden imported from Germany; data requested that will assist in removing the prejudice against American pork. | 1478 |
| 1005 | Same to same (No. 119) .... | Mar. 20 | Political: New Norwegian ministry; political parties; taxation heavy; endeavors made to lessen Norway's contribution towards the support of the King. | 1479 |
| 1006 | Same to same (No. 122) .... | Apr. 18 | Railroads: State and private roads; their extent, cost, and management; precautions against accidents; the Government building a road to offset the Russian road to the Gulf of Bothnia. | 1480 |
| 1007 | Same to same (No. 135)..... | July 21 | Tariff laws of Sweden: Cotton, its manufactures, and coal oil exempt; breadstuffs, meats, etc., tobacco, and spirits taxed; the bill is framed in the interest of land-owners. | 1482 |
| 1008 | Mr. Bayard to Mr. Magee (No. 96). | Aug. 17 | Extradition of Albert Erbers, alias Eberson, charged with attempted murder and forgery; Mr. Russell directed to give the address of the fugitive; copy of telegram to the Department from Mr. Wegner and of telegram sent through Mr. Russell inclosed. | 1483 |

## SWEDEN AND NORWAY—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 1009 | Mr. Magee to Mr. Bayard (No. 136). | Aug. 27 | Extradition of Erbers, alias Eberson: Request made to the Swedish Government; no answer received; certified copies of the indictment and some one to identify and receive Erbers necessary; he will be arrested, but will not be surrendered unless a naturalized American citizen. | 1483 |
| 1010 | Same to same (tele ram) .. | Sept. 9 | Extradition of Erbers, alias Eberson: Erbers arrested. | 1484 |
| 1011 | Mr. Bayard to Mr. Magee (No. 99). | Sept. 12 | Leper immigration from Norway: United States consul at Christiania to be informed that the immigrants were from Stavanger; copies of letters from Mr. Gade to Dr. Kennedy and from Dr. Kennedy, of the Iowa State board of health, to Hon. W. B. Allison inclosed. | 1484 |
| 1012 | Same to same (No. 100)..... | Sept. 13 | Extradition of Erbers, alias Eberson: The governor of Iowa notified of his arrest. | 1486 |
| 1013 | Same to same (No. 104) .. | Sept. 21 | Extradition of Erbers, alias Eberson: Request made by the governor of Wisconsin to the Department for the surrender of Erbers. | 1487 |
| 1014 | Mr. Magee to Mr. Bayard (No. 141). | Sept. 30 | Extradition of Erbers, alias Eberson: Erbers held for identification; will not be surrendered unless he is a naturalized American citizen; he denies that he is; he will be tried in Sweden if not extradited; will endeavor to get him voluntarily to return to America; necessary papers not yet received. | 1487 |
| 1015 | Same to same (No. 142)..... | Sept. 30 | Leper immigration from Norway: Government assistance promised to prevent leper emigration; emigration not favored; no one allowed to leave the Kingdom unless provided with a certificate, which the consuls may examine; consuls instructed to use care; emigration easily effected through neighboring countries; suggested restrictions on immigration. | 1488 |
| 1016 | Same to same (No. 144)..... | Oct. 20 | Extradition of Erbers, alias Eberson: Arrival of Messrs. McManus and Kœhler; extradition of Erbers refused unless proof be given of his naturalization or he returns voluntarily; Erbers insane; it is desired that he be punished in Sweden when recovered. | 1489 |
| 1017 | Mr. Rives to Mr. Magee (No. 112). | Nov. 7 | Extradition of Erbers, alias Eberson: Refusal of the Swedish Government to surrender him communicated to the governor of Wisconsin and the district attorney at Milwaukee. | 1490 |
| 1018 | Mr. Gade to Mr. Rives (No. 489). | Sept. 4 | Norwegian law of citizenship declaring the obligations of citizens, requisites for naturalization, and restricting the holding of land by foreigners, etc.: Translation of law inclosed. | 1490 |


## SWITZERLAND.


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| | | 1887. | | |
| 1019 | Mr. Winchester to Mr. Bayard (No. 159). | Oct. 4 | Passport application of S. M. Pollok: He emigrated to the United States in 1875; was naturalized November 13, 1882, and left for Switzerland November 15, 1882, and is unable to say when he will return; instructions asked. | 1496 |
| 1020 | Same to same (No. 162)..... | Oct. 10 | Tariff: Speech of the President of the Swiss Confederation against protective tariff; tariff laws and treaties of Switzerland. | 1496 |
| 1021 | Same to same (No. 165)..... | Oct. 17 | Passports: Instructions asked as to whether the declaration of intention to return to the United States shall be exacted of the children of naturalized citizens. | 1499 |
| 1022 | Mr. Bayard to Mr. Winchester (No. 104). | Oct. 24 | Passport of S. M. Pollok: If Mr. Pollok is abroad as the agent of an American firm, and intends returning to the United States to reside when his agency terminates, he should be granted a passport. | 1500 |
| 1023 | Mr. Winchester to Mr. Bayard (No. 168). | Oct. 24 | Mormonism in Switzerland: Memorial of the police of Berne to the executive council of the canton reporting the operations of Mormon agents and suggesting measures for their suppression; Mormon emigration agents; openness of their operations; the appeal of Loosti refused by the Federal Council; translation of the police memorial inclosed. | 1500 |
| 1024 | Same to same (No. 169)..... | Nov. 10 | Political: Organization of the Swiss Confederacy; elections; parties. | 1507 |

## SWITZERLAND—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1887. | | |
| 1025 | Mr. Bayard to Mr. Winchester (No. 108). | Nov. 11 | Passports: The forms of application for passports general, and do not preclude other tests of citizenship by the minister; a passport to be refused to expatriated Americans; manner of filling a blank by children of naturalized parents. | 1510 |
| 1026 | Mr. Winchester to Mr. Bayard (No. 173). | Nov. 28 | Passports: Requests to know whether the legation is right in keeping the old passports of applicants when new ones are refused them. | 1511 |
| 1027 | Same to same (No. 174).... | Dec. 9 | International Copyright Convention: Russia, Holland, Greece, Austria, the United States, and Sweden and Norway not parties; importance attached to the refusal of the United States to sign the convention; the bureau not yet organized. | 1511 |
| 1028 | Mr. Bayard to Mr. Winchester (No. 111).) | Dec. 15 | Passports: Old should have a pen stroke drawn through the signatures, "canceled" written on their faces, and be returned to the holders. | 1512 |
| 1029 | Mr Winchester to Mr. Bayard (No. 176). | Dec. 15 | Political: Organization, duties, etc., of the Bundesrath or Swiss Federal Council. | 1512 |
| 1030 | Mr. Bayard to Mr. Winchester (No. 113). | Dec. 19 | Protection of the American consulate at Zurich, when threatened by anarchists, by the Swiss Government; the appreciation of the Department to be expressed. | 1515 |
| 1031 | Mr. Winchester to Mr. Bayard (No. 178). | Dec. 22 | Passport for Mrs. Weiss, a native of Switzerland, whose husband, a naturalized American citizen, deserted her, and who is now a pauper and insane; a passport asked for her by the cantonal ministry of Zurich; probability that it is intended to return her to the United States; instruction requested. | 1515 |
| | | 1888. | | |
| 1032 | Mr. Bayard to Mr. Winchester (No. 116). | Jan. 5 | Passport for Mrs. Weiss: The case similar to that of Mrs. Blumenthal; her continued residence in Switzerland since her desertion by her husband in 1880 revived her Swiss domicile; if a lunatic at the time, the local guardians could have elected. | 1516 |
| 1033 | Mr. Winchester to Mr. Bayard (No. 188). | Jan. 31 | Anarchist refugees numerous and violent: Three leaders expelled from Switzerland; other expulsions expected if quiet is not restored, and the Zurich municipality requested by the federal council to supervise publication of the Socialist press. | 1517 |
| 1034 | Same to same (No. 190).... | Feb. 13 | Passport for Mrs. Weiss: Her husband reported to be alive in America; inquiries requested to be made for him by the Swiss minister; Department, after inquiry as to the husband, orders a refusal of a passport; instructions asked, in case her stay abroad was involuntary, as to the law giving the wife the citizenship of the husband, if Mr. Weiss be alive, and as to the effect of his life or death on her citizenship. | 1517 |
| 1035 | Same to same (No. 191).... | Feb. 17 | Political: The Swiss Confederation; review of its constitutional, cantonal, and Federal jurisdiction. | 1519 |
| 1036 | Mr. Bayard to Mr. Winchester (No. 129). | Mar. 19 | Passport for Mrs. Weiss: No necessity for considering the supposititious case put; the only use of a passport for her would be to send her to the United States, where she would be without friends or support. | 1531 |
| 1037 | Same to same (No. 130)... | Mar. 22 | Mormon emigration to the United States: Emigration agents actively at work in Switzerland; representations to be made to the Swiss Government to prevent Mormon emigration to the United States; such emigration probably in violation of the statute against the importation of contract labor; suggestion to be made to the Swiss Government that endeavors be made to secure evidence on this point. | 1532 |
| 1038 | Mr. Winchester to Mr. Bayard (No. 210). | Apr. 20 | Anarchists in Zurich: Four of their leaders expelled from Switzerland. | 1533 |
| 1039 | Same to same (No. 212).... | Apr. 21 | Mormon emigration to the United States: Cooperation to prevent emigration and discover the agreements made by the emigrants promised by the Swiss Government; emigration laws revised and made more strict. | 1534 |
| 1040 | Mr. Bayard to Mr. Winchester (No. 137). | May 11 | Mormon emigration to the United States: Mr. Winchester's course in presenting the case to the Swiss Government approved. | 1535 |
| 1041 | Mr. Winchester to Mr. Bayard (No. 230). | Aug. 17 | Congress of the Institute of International Law to meet next at Lausanne; list of subjects to be discussed. | 1535 |

CORRESPONDENCE WITH THE LEGATION OF SWITZERLAND AT WASHINGTON.


| No. | From and to whom. | Date. | Subject. | Page. |
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| | | 1887. | | |
| 1042 | Mr. Kloss to Mr. Bayard... | Aug. 13 | Industrial Property Convention: The adhesion of the United States, with the reservation in the protocol of 1880, notified to the other Governments; request of the French Government to know the position of the United States, under the Constitution, in regard to trade-marks; the answer to which was sent, defining the position; the French Government not satisfied. Is the restriction in the law of 1881 in regard to marks, which consist merely of a name, applicable to foreigners in the United States? Such marks recognized by the convention; answer requested; the law of 1881 can not be maintained in regard to the States; it is a Federal ordinance, and can be changed by Congress. | 1535 |
| 1043 | Same to same..... | Aug. 20 | Prepayment of diplomatic and consular correspondence: Circular note on the subject from the federal council inclosed. | 1537 |
| 1044 | Same to same..... | Sept. 13 | Industrial Property Convention: Interpretation given by others of the reservations under which the United States acceded to this convention, an explanation of which was requested from the Department. | 1538 |
| 1045 | Mr. Adee to Mr. Kloss..... | Sept. 16 | Prepayment of diplomatic and consular correspondence: All such correspondence wholly prepaid by the United States; correspondence with the postal administrations of the states of the Postal Union franked according to treaty; the arrangement proposed not considered advisable. | 1539 |
| | | 1888. | | |
| 1046 | Mr. Frey to Mr. Bayard.... | Jan. 5 | Trade-marks: The treaty of 1885 between Switzerland and the United States not ratified by the Senate; the approval or disapproval of the Senate requested to be obtained. | 1540 |
| 1047 | Mr. Bayard to Mr. Frey.... | Jan. 11 | Industrial Property Convention: The power of Congress in regard to trade-marks not free from doubt; an opinion will not be expressed pending judicial decision; trade-marks registered according to the statutes on the subject; a decision of the legality of the statute can be obtained by appeal to the courts; the treaty-making powers of Congress; general power over trade-marks, etc., not passed upon by the decision of 1879; an opinion from the Executive without legal weight, but possibly misleading. | 1540 |
| 1048 | Mr. Frey to Mr. Bayard.... | Jan. 31 | Industrial Property and Literary and Artistic Conventions: Note in regard to their management from the Swiss Federal council inclosed. | 1542 |
| 1049 | Same to same..... | Feb. 18 | Literary and Artistic Works Convention: Communication from the Federal council inclosed. | 1542 |
| 1050 | Mr. Bayard to Mr. Frey.... | Mar. 17 | Trade-marks: The treaty between Switzerland and the United States prepared by Mr. Bayard's predecessor and not submitted to Congress; the question raised under the Industrial Property Convention; the power of Congress in the matter in doubt; legislation and judicial decision; the treaty not thought necessary or advisable. | 1543 |
| 1051 | Mr. Rives to Mr. Kloss..... | June 23 | Industrial Property and Literary and Artistic Works Conventions: Arrangement for the economic administration of the two unions approved. | 1545 |
| 1052 | Mr. Bayard to Dr. de Claparede. | Nov. 28 | Death of President Hertenstein: Sympathy of the United States. | 1545 |


TURKEY.


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|---|---|---|---|---|
| | | 1887. | | |
| 1053 | Mr. Bayard to Mr. Straus (No. 51). | Oct. 31 | Expulsion of Jews from Palestine: Copy of a dispatch from the United States consul at Jerusalem, covering a communication from the governor of Palestine inclosed. | 1546 |
| 1054 | Same to same (No. 58)..... | Nov. 2 | American missionaries in Turkey: Copy of a letter from the American Board of Commissioners for Foreign Missions commendatory of the Department's and legation's action inclosed. | 1547 |

TURKEY—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
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| | | 1887. | | |
| 1055 | Mr. Straus to Mr. Bayard (No. 46). | Dec. 5 | Seizure of a book on Mormonism, published without authorization: Requested by the Turkish Government to instruct the consul-general to assist in entering the house of Hadje, an American, to seize the book; the instruction given; translation of a *note verbale* from the Sublime Porte; copies of dispatch to Mr Pringle and his reply inclosed. | 1547 |
| 1056 | Mr. Bayard to Mr. Straus (No. 58). | Dec. 7 | Petroleum: The Russian Government reported to be endeavoring to obtain exclusive concession for the erection of tanks for Russian petroleum; investigation to be made, and American interests protected; Mr. Cardwell similarly instructed; copy of Mr. Flagg's letter inclosed | 1549 |
| 1057 | Mr. Straus to Mr. Bayard (No. 47). | Dec. 27 | Regulations concerning public instructions proposed placing obstacles in the way of foreign schools in the empire: opposed by all the foreign ministers; translation of the regulations and Mr. Straus's memoranda to the Turkish ministry inclosed. | 1550 |
| 1058 | Same to same (No. 49). | Dec. 30 | Missionary schools in Syria and the Vilayet of Adana closed; disposition in the empire to obstruct missionary teaching; permission obtained to open the Syrian schools if the curriculum, text-books, and teachers' certificates be submitted to local authorities; missionaries fail to comply with the requirements; an arrangement anticipated; schools of Adana closed on account of alleged lack of authorization; telegram sent by the grand vizier to the governor-general of Adana to allow them to open; permission to make a tour in Syria and Adana requested; copies of dispatches from Consul-General Pringle and Consul Bessinger inclosed. | 1553 |
| | | 1888. | | |
| 1059 | Same to same (No. 52)..... | Jan. 5 | Petroleum: The Porte has no knowledge of the proposed concession to Russia for the erection of tanks; a communication to the Egyptian Government on the subject promised; copy of *note verbale* to the Porte inclosed. | 1566 |
| 1060 | Same to same (No. 56)..... | Jan. 17 | Archæological explorations: Permission to make explorations, formerly given to all, withdrawn, because of its abuse; explorations being conducted by the Turkish Government; foreign societies allowed to take articles not wanted by Turkish museum; scientific explorations will be favored. | 1557 |
| 1061 | Mr. Bayard to Mr. Straus (No. 67). | Jan. 28 | Missionary schools in Syria and Adana: Action in regard to approved; permission given for a tour through Syria and Adana. | 1558 |
| 1062 | Mr. Straus to Mr. Bayard (No. 57). | Jan. 28 | Expulsion of Jews from Jerusalem: The limit of the stay of Jews at Jerusalem extended to three months; the prevention of conflicts between Jews and Christians and the rumored intention of Jews to seize Palestine alleged as the reason; the grand vizier promises to consider the case of the expulsion of American citizens in view of treaty stipulations; United States consul instructed to report all cases; the British ambassador agrees with Mr. Straus's views. | 1559 |
| 1063 | Mr. Bayard to Mr. Straus (No. 70). | Feb. 3 | Regulations concerning public instruction in Turkey, Mr. Straus's course in opposing, approved. | 1561 |
| 1064 | Mr. Straus to Mr. Bayard (No. 61). | Feb. 18 | Missionary schools in the Vilayet of Adana reopened in obedience to the order of the grand vizier. | 1561 |
| 1065 | Mr. Bayard to Mr. Straus (No. 74). | Feb. 21 | Expulsion of Jews from Jerusalem, Mr. Straus's protest against, approved. | 1562 |
| 1066 | Mr. Straus to Mr. Bayard (No. 63). | Feb. 24 | Customs immunities previously enjoyed by missionaries in Turkey lately restricted: *Note verbale* to the Porte formulated by the dragomans of the foreign legations; similar notes sent by most of the legations; copy of note of American legation inclosed. | 1562 |
| 1067 | Same to same (No. 64)..... | Feb. 27 | Eviction of the cavass of the United States consulate at Jerusalem from his house: The grand vizier of opinion that he has the right of domicile of an American citizen, and an explanation asked of the governor of Jerusalem. | 1563 |

TURKEY—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 1068 | Same to same (No. 65)..... | Feb. 27 | Passport regulations in Turkey: The dragomans of the foreign missions formulate a *note verbale* objecting to them; copy of Mr. Straus's *note verbale* to the Porte inclosed. | 1563 |
| 1069 | Same to same (No. 66)..... | Feb. 28 | Protection of naturalized American citizens who return to the native country: Copy of correspondence with Mr. I. L. Barton inclosed. | 1565 |
| 1070 | Mr. Bayard to Mr. Straus (No. 78). | Mar. 5 | Expulsion of Jews from Jerusalem: A communication from Mavroyeni Bey on the subject, stating that passports are given only to pilgrims and a further *permis de séjour* required; creed distinctions of American citizens not recognized; acquiescence in the requirement of a declaration of religion impossible | 1566 |
| 1071 | Same to same (No. 81) .... | Mar. 13 | Customs immunities of missionaries, Mr. Straus's note protesting against the abridgment of, approved. | 1568 |
| 1072 | Same to same (No. 84)..... | Mar. 17 | Eviction of the cavass of the United States consulate at Jerusalem: Letter from the consul giving particulars of the case; treaties and agreements with Turkey in regard to extraterritoriality of employés; was the cavass employed when the suit was begun? Unwilling to stretch the extraterritoriality of natives employed by United States legation and consulates, and unwilling to instruct Mr. Gilman that real estate of Ottomans employed as guards at United States consulates is taken out of Turkish jurisdiction; position of the Turkish Government to be ascertained; copy of Mr. Gilman's letter inclosed. | 1568 |
| 1073 | Same to same (No. 85)..... | Mar. 20 | Eviction of the cavass of the United States consulate at Jerusalem: Informal presentation of the case to the grand vizier approved. | 1572 |
| 1074 | Same to same (No. 88)..... | Mar. 23 | Passport regulations: Complaint received from consul at Jerusalem of harsh application of them in Palestine; copy of the consul's dispatch and Department's answer inclosed. | 1572 |
| 1075 | Mr. Straus to Mr. Bayard (No. 68). | Apr. 5 | Extradition of H. A. Proios: *Note verbale* received from the Porte claiming Proios to be a Turkish citizen; Mr. Proios holds a passport granted in 1887 in place of one from the State Department dated 1871; information in regard to Proios's naturalization desired. | 1573 |
| 1076 | Mr. Bayard to Mr. Straus (No. 92) | Apr. 14 | Missionary schools: Copy of dispatch from consul at Sivas on the attitude of Turkish provincial authorities in regard to, inclosed. | 1574 |
| 1077 | Mr. Straus to Mr. Bayard (No. 69). | Apr. 24 | Missionary schools re-opened: Tour through the empire; courtesy met with; good understanding between the governors-general and United States consular officers. | 1581 |
| 1078 | Mr. Bayard to Mr. Straus (No. 95). | Apr. 25 | Extradition of Hercules A. Proios: No valid ground for remonstrance against the Turkish Government's action; Proios, apparently by long residence in Turkey, has renounced his American citizenship; proof to the contrary to be carefully considered. | 1582 |
| 1079 | Mr. Straus to Mr. Bayard (No. 71). | Apr. 30 | Extradition of H. A. Proios: *Note verbale* from the Porte requesting that the United States consul at Odessa be instructed not to oppose the extradition of Proios; the Porte informed that the legation had no jurisdiction, and would refer the matter to the Department; advises its being made a condition that Proios be tried by United States consul unless not naturalized; copy of the Porte's *note verbale* inclosed. | 1583 |
| 1080 | Same to same (No. 77)..... | May 9 | Missionary schools: All except one reopened; copy of dispatch from Consul Bissinger inclosed. | 1584 |
| 1081 | Same to same (No. 78)..... | May 9 | Archæological explorations: No relaxation of the Turkish law in regard to explorations and excavations obtained by European archæologists; little hope of obtaining any for Americans; duplicates of discoveries obtainable through Hamdy Bey; support promised by the grand vizier in obtaining the Porte's permission for excavators to retain a portion of their discoveries; translation of Turkish law on the subject inclosed. | 1584 |
| 1082 | Mr. Bayard to Mr. Straus (No. 96). | May 17 | Extradition of H. A. Proios: No. 71 received; consul at Odessa called upon for information. | 1588 |

TURKEY—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 1083 | Mr. Straus to Mr. Bayard (No. 80). | May 19 | Expulsion of Jews from Jerusalem is in obedience to orders of the Porte: The English and French ambassadors instructed to protest against; immediate protest made by Mr. Straus in view of the reference of the matter to the Porte's legal advisers; copy of note to the Porte inclosed. | 1588 |
| 1084 | Mr. Bayard to Mr. Straus (No. 101). | May 24 | Missionary schools and tour, No. 69, in regard to, received; the portion relating to the reopening of the schools printed in Consular Reports and forwarded to missionary societies; acknowledgments of the Department for ability and tact displayed. | 1590 |
| 1085 | Mr. Straus to Mr. Bayard (No. 85). | May 25 | Expulsion of Jews from Jerusalem: Copy of English minister's note, and translation of the French minister's to the Porte in regard to, inclosed. | 1590 |
| 1086 | Mr. Bayard to Mr. Straus (No. 104) | May 31 | Eviction of the cavass of the consulate at Jerusalem: Mr. Gillman writes that the appointment of the cavass was bona fide, that a special permit is not always required, and its absence was cured by the certificate recognizing Kassas as consular cavass and exempting him from military service; copy of Mr. Gillman's dispatch inclosed. | 1591 |
| 1087 | Same to same (No. 107)..... | June 5 | Expulsion of Jews from Palestine: Mr. Straus's presentation of the matter to the Turkish Government approved. | 1592 |
| 1088 | Mr. Straus to Mr. Bayard (No. 86). | June 8 | Joint-stock companies: Translation of a *note verbale* from the Porte inclosing a regulation in regard to joint-stock companies, and copy of a *note verbale identique* sent in reply by the American and other legations inclosed. | 1592 |
| 1089 | Same to same (No. 87)..... | June 8 | Printing offices, New Turkish law in regard to, conflicting with the rights of foreigners; evidence of jealousy of foreigners; protest of the legations; translation of the law and copy of *note verbale identique* sent by the legations to the Porte inclosed. | 1594 |
| 1090 | Mr. Bayard to Mr. Straus (No. 115). | June 28 | Printing-office regulations of Turkey. *Note verbale* objecting to, approved; Article V, requiring the renunciation of the right to the protection of his legation, chiefly objectionable; similar Mexican and South American laws; such a condition not recognized by this Government. | 1599 |
| 1091 | Mr. King to Mr. Bayard (No. 105). | Sept. 1 | Execution of consular judgments, the disposition of the foreign missions is to accept the Porte's regulation in regard to; copy of the collective notes on the subject sent by all the foreign missions, and the Porte's reply, covering the regulations, inclosed. | 1600 |
| 1092 | Same to same (No. 109)..... | Sept. 11 | Eviction of the cavass of the consulate at Jerusalem: The manner of the eviction doubtless unwarranted, but Mr. Pringle's suggestion will be adopted and no action taken without instructions; note to Mr. Pringle and his reply inclosed. | 1602 |
| 1093 | Same to same (No. 112)..... | Sept. 18 | Extradition of H. A. Proios: Notes to Porte, asking, at the consul-general's request, the evidence against Proios, not answered; intention of the Porte not to give evidence made plain at interview; Proios refuses to be examined by the sanitary commission; two notes from the Porte, requesting such examination, answered that Proios could not be forced to answer; copy of correspondence with Consul-General Pringle and the Porte inclosed. | 1603 |
| 1094 | Mr. Bayard to Mr. King (No. 134). | Sept 21 | Extradition of H. A. Proios: Copy of protest of Proios inclosed. | 1607 |
| 1095 | Mr. King to Mr. Bayard (No. 115). | Sept. 24 | Expulsion from Jaffa of three Jews, bearing American passports, threatened: The minister of foreign affairs and grand vizier requested to send preventive telegrams; copy of Mr. Gillman's dispatch to Mr. Pringle and Mr. King's note to the Porte inclosed. | 1615 |
| 1096 | Same to same (No. 124)..... | Oct. 5 | Restoration of real property on termination of lease, note from the Porte in regard to; it will be considered by foreign ministers; copy of note inclosed. | 1616 |
| 1097 | Mr. Rives to Mr. Straus (No. 140). | Oct. 15 | Expulsion of Jews from Jaffa: Mr. King's action approved; copy of instruction to the United States consul at Jerusalem inclosed. | 1617 |

## TURKEY—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 1098 | Mr. King to Mr. Bayard (No. 129). | Oct. 22 | Expulsion of Jews from Jerusalem and Jaffa: Copy of notes from the Porte in regard to, inclosed. | 1619 |
| 1099 | Mr. Bayard to Mr. Straus (No. 150). | Oct. 26 | Extradition of H. A. Proios: Recognition of his citizenship to be withheld and his passport to be canceled; copy of Department's letter to Proios sent to United States Consul-General Pringle and herewith inclosed. | 1620 |
| 1100 | Mr. King to Mr. Bayard (No. 133). | Nov. 8 | Archæological explorations: Concession beyond the law obtained, giving explorers the ownership to certain articles discovered and the right to export them. | 1623 |
| 1101 | Mr. Adee to Mr. Straus (No. 156). | Nov. 7 | Expulsion of Jews from Palestine: It is not supposed that Mr. Straus will take a decided ground as to the right of colonization in mass at the joint consideration of the Porte's note, but leave himself at liberty to consider individual cases of American Jews. | 1624 |
| 1102 | Mr. Straus to Mr. Bayard (No. 139). | Nov. 14 | Publication of the Bible in Turkish granted: Decision as to the binding force of Aali Pasha's note deferred. | 1624 |
| 1103 | Mr. Bayard to Mr. Straus (No. 159). | Nov. 21 | Archæological explorations: Satisfaction of the Department that permission will be granted representatives of the University of Pennsylvania to make explorations in Assyria and Babylonia. | 1626 |


## CORRESPONDENCE WITH THE LEGATION OF TURKEY AT WASHINGTON.


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|---|---|---|---|---|
| | | 1888. | | |
| 1104 | Mavroyeni Bey to Mr. Bayard. | Mar. 2 | Expulsion of Jews from Palestine: Jews not allowed to remain over three months in Palestine; the conditions on which the sojourn is permitted. | 1627 |
| 1105 | Mr. Bayard to Mavroyeni Bey. | Mar. 5 | Expulsion of Jews from Palestine: Note of the 2d instant received; the matter pending at Constantinople; certificates as to intention not given citizens going abroad. | 1627 |
| 1106 | Mavroyeni Bey to Mr. Bayard. | Oct. 30 | Expulsion of Jews from Palestine: The regulations recited in note of the 2d instant only applicable to Jews emigrating in a body, and no obstacle will be raised to the sojourn of others. | 1628 |
| 1107 | Mr. Rives to Mavroyeni Bey. | Nov. 8 | Expulsion of Jews from Palestine: Note announcing that the regulations relative to the sojourn of Jews in Palestine apply only to those emigrating in a body, received. | 1628 |


## EGYPT.


| | | | | |
|---|---|---|---|---|
| | | 1888. | | |
| 1108 | Mr. Cardwell to Mr. Rives (No. 201). | Jan. 4 | Suppression of the corvée: The adhesion of the United States asked by Egypt to the partial suppression of the corvée: This relates to the law requiring labor not exceeding thirty days on dikes, canals, etc.; enforced labor proper and necessary on account of the great expense; indefinite abolition of the corvée contemplated by European powers signing at London; France and Russia objected to this decree; the powers now asked to assent to a partial suspension of the corvée, $1,250,000 to be appropriated for the employment of voluntary labor; the thirty days' limit to remain in force or be extended if necessary; draught of decree inclosed. | 1629 |
| 1109 | Mr. Bayard to Mr. Cardwell (No. 127). | Feb. 4 | Suppression of the corvée: Neither the approval nor disapproval of the United States called for in the matter of the khedival decree suppressing the corvée: The United States have no concern in the matter, further than to see that no discrimination against Americans is proposed, but as a refusal may embarrass the Khedive, gives a qualified consent; Department's No. 13 to be consulted; anything in the minister's note or the decree conflicting with these instructions to be reported, and copies of the note and decree sent for the files of the Department. | 1630 |

## EGYPT—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 1110 | Mr. Carwell to Mr. Rives (No. 209). | 1888. Feb. 12 | Increase in number of American tourists from a dozen, in the winter of 1884–'85, to nearly 2,000 in 1887–'88; climate delightful; no American colony and the good offices of the United States representatives frequently required; consideration shown them by the Khedive and other Egyptians; greater numbers of Americans expected in the future. | 1631 |
| 1111 | Mr. Rives to Mr. Cardwell (No. 123). | Mar. 7 | Satisfaction of the Department with his efforts to promote the interests of Americans. | 1632 |
| 1112 | Mr. Caldwell to Mr. Rives (No. 212). | Mar. 10 | A publication showing the importance of American missions in Egypt as an educating agency, to which reference has been so often made, inclosed. | 1632 |


## URUGUAY.


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|---|---|---|---|---|
| 1113 | Mr. Bacon to Mr. Bayard (No. 242). | 1888. Aug. 26 | Private International Law Congress opened August 25: All South American States except Venezuela and Colombia represented; subjects for discussion. | 1635 |


## VENEZUELA.


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|---|---|---|---|---|
| 1114 | Mr. Scott to Mr. Bayard (No. 187). | 1887. Sept. 3 | Closing of Venezuelan ports against Curacao contemplated: Expulsion of three Venezuelans from Curaçao demanded, with the threat of stopping all intercourse if it were not done; the demand refused by the governor of Curaçao; substance of the governor's reply; the serious injury which will result to American commerce; blockade of Venezuelan ports by Holland, assisted by England, reported probable. | 1636 |
| 1115 | Mr. Bayard to Mr. Scott (No. 126). | Sept. 22 | Closing of Venezuelan ports against Curaçao: Such a measure viewed with great concern; similar case in 1882 and 1883 when duty of 30 per cent. levied on foreign goods transshipped in a foreign colony en route; decree revoking it; the transference of merchandise from one United States vessel to the other at Curaçao not a break in the voyage; the measure, if a suspension of commercial intercourse with the United States, will provoke remonstrance and countervailing measures. | 1637 |
| 1116 | Mr. Scott to Mr. Bayard (No. 194). | Oct. 17 | Closing of Venezuelan ports against Curacao: The trouble between the two countries settled by the expulsion of two of the three refugees. | 1639 |
| 1117 | Mr. Bayard to Mr. Scott (No. 136). | Nov. 8 | Closing of Venezuelan ports against Curaçao: The cause removed, but the principle continuing; the views of the Department to be presented to the Venezuelan Government, informally stating that the right contended for would be insisted on should occasion arise. | 1639 |
| 1118 | Mr. Scott to Mr. Bayard (No. 204). | Nov. 30 | Closing of Venezuelan ports against Curaçao: The views of the Department will be communicated to the Venezuelan Government. | 1640 |
| 1119 | Same to same (No. 210) .... | Dec. 23 | Closing of Venezuelan ports against Curaçao: The Department's views concurred in by the Venezuelan minister who promises that no damage shall result to American commerce. | 1640 |
| 1120 | Mr. Bayard to Mr. Scott (No. 156). | 1888. Mar. 22 | Visiting United States vessels not permitted to the United States consul at Puerto Cabello unless furnished with a permit in writing; a general regulation dispensing with a written permit in such cases to be asked of the Venezuelan Government. | 1640 |
| 1121 | Same to same (No. 159) .... | Apr. 12 | Law requiring delivery of ship's papers to Venezuelan customs officers: Instructions of December 4, 1885, to protest against the law repeated; previous correspondence on the subject; report to be made; correspondence in regard to a similar law of Colombia which was repealed. | 1642 |

## VENEZUELA—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 1122 | Mr. Scott to Mr. Bayard (No. 232). | Apr. 28 | Obsequies of General Paez, an account of the.... | 1643 |
| 1123 | Same to same (No. 236) .... | May 23 | Law requiring the delivery of all ship's papers to the customs authorities at the port of entry in Venezuela will be examined into and objections to it presented to that Government; delay advised in view of the disturbed political condition. | 1644 |
| 1124 | Same to same (No. 237) .... | May 24 | Obsequies of General Paez: President Lopez's letter to President Cleveland inclosed. | 1645 |
| 1125 | Mr. Bayard to Mr. Scott (No. 166). | June 5 | Law requiring delivery of ship's papers to Venezuelan customs officers: The matter not to be deferred until the establishment of a more responsible government, but to be presented now. | 1645 |
| 1126 | Mr. Scott to Mr. Bayard (No. 255). | July 31 | Law requiring delivery of ship's papers to Venezuelan customs officers: Note to the minister of foreign affairs inclosed. | 1646 |


## CIRCULARS.


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| | | 18—. | | |
| 1127 | ..... | ..... | Citizenship and naturalization: Information in regard to. | 1648 |
| | | 1888. | | |
| 1128 | To the consular officers of the United States at seaports. | Mar. 13 | American seaman, meaning of the term; Mr. Bayard to Mr. Fairchild, February 11, 1888, and Mr. Fairchild to Mr. Bayard, February 28, 1888, inclosed. | 1655 |
| 1129 | To the diplomatic officers of the United States. | July 13 | Conference of American States for the settlement of disputes by arbitration: Invitations to be extended to American Governments to attend. | 1658 |
| 1130 | To the diplomatic officers of the United States in Europe. | July 26 | Life-saving institutions, Reports, designation, and addresses of, to be procured for the Treasury: that Department will give its reports in return. | 1659 |
| 1131 | To the diplomatic officers of the United States accredited to maritime powers. | July 30 | Maritime conference: Invitations to be extended to maritime powers to confer at Washington upon the means of securing greater safety for life and property at sea; the special subjects for discussion enumerated. | 1659 |
| 1132 | To the diplomatic and consular officers of the United States. | Aug. 20 | Passports: Forms of applications for, and general instructions in regard to, inclosed. | 1662 |
| 1133 | To the consular officers of the United States. | Aug. 25 | Status of naval seamen after conviction in consular courts, Amendment of the circular of August 19, 1887, in regard to. | 1665 |
| 1134 | Proclamation by the President. | Apr. 16 | Tonnage duties removed on vessels coming from the ports of the island of Guadeloupe. | 1666 |

# SUPPLEMENTARY SYNOPSES.

## SUPPLEMENT A.

### PAPERS RELATING TO THE CASE OF LORD SACKVILLE.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| A | Charles F. Murchison to Sir L. S. Sackville West. | 1888. Sept. 4 | The Presidential election: Englishmen, induced to become United States citizens by Mr. Cleveland's friendly attitude towards Great Britain, alarmed by his hostility on the fishery question; if it be merely to gain popularity, to be changed after his re-election, will vote for him. California evenly divided between the parties; Mr. Harrison an enemy to British interests; the balance of power with naturalized Englishmen; confidential advice as to Mr. Cleveland's policy requested that Englishmen may be advised how to vote. | 1667 |
| B | Sir L. S. Sackville West to Charles F. Murchison. | Sept. 13 | The Presidential election: Either political party openly favoring Great Britain would lose popularity; the Democratic party aware of this, yet desirous of maintaining friendly relations with Great Britain and settling Canadian questions; allowance to be made on account of the approaching election; every reason to believe that Mr. Cleveland, while maintaining his position, will be conciliatory; an article from the "New York Times" inclosed. | 1668 |
| 1 | Mr. Bayard to Mr. Phelps (telegram). | Oct. 25 | The Murchison correspondence shown to Mr. Bayard by Lord Sackville, who said his letter was meant to be kept private; amazement and condemnation of Mr. Bayard expressed to him; reflections subsequently made by Lord Sackville in newspaper interviews upon the President and Senate; Lord Salisbury's attention to be called to the matter, and confidence expressed that he will disapprove it. | 1669 |
| 2 | Mr. Phelps to Mr. Bayard (telegram). | Oct. 26 | Lord Salisbury absent from town; will see him the 28th; is it certain Lord Sackville was not incorrectly reported? | 1669 |
| 3 | Mr. Bayard to Mr. Phelps (telegram). | Oct. 26 | The motives of the President and Senate in regard to Canadian questions impugned in his correspondence and in public interviews by Lord Sackville, and his usefulness at an end; public sentiment aroused; Lord Salisbury should understand the necessity of immediate action. | 1670 |
| 4 | Mr. Phelps to Mr. Bayard (telegram). | Oct. 28 | Lord Salisbury declines to act until receipt of Lord Sackville's precise language and explanation; the letter alone not regarded as warranting his recall; a recall will end his career; not so a dismissal by the United States, for which there are precedents; delay on the part of the British Government anticipated; advises dismissal, if effective action is necessary; this view supported by the London press; the requirements of comity satisfied; explanations can follow. | 1670 |
| 5 | Report by the Secretary of State to the President. | Oct. 29 | A letter written by C. F. Murchison, an Englishman, naturalized in the United States, to Lord Sackville, asking advice how he and his fellow countrymen (Englishmen, naturalized citizens of the United States) should vote at the | 1671 |

## SUPPLEMENT A—Continued.

### PAPERS RELATING TO THE CASE OF LORD SACKVILLE—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 5 | Report by the Secretary of State to the President—Continued. | Oct. 29 | Presidential election for the best interests of England, and containing reflections upon the United States Government in regard to controversies with Great Britain; reply made by Lord Sackville giving the advice and sanctioning the aspersions on the United States Government; subsequent utterances of Lord Sackville reported in newspapers impugning the faith of the United States, which have not been publicly denied; the question whether such conduct is compatible with the dignity of the United States; the complete severance of the original allegiance of Englishmen settled by treaty of 1870; advises that the attention of the Attorney-General of the United be called to section 5335, United States Revised Statute (quoted), as bearing upon Murchison's conduct; the facts and sentiments of the United States Government communicated to the British; necessary to consider whether intercourse through the present British minister shall not be discontinued; precedents for such action. | |
| 6 | Mr. Bayard to Lord Sackville. | Oct. 30 | Lord Sackville's continuance in his present official position not compatible with the good relations of the two Governments; a passport inclosed. | 1672 |
| 7 | Mr. Bayard to Mr. Phelps (telegram). | Oct. 30 | Lord Sackville informed that his continuance in his present official position is no longer acceptable, and a passport given him; another channel of intercourse between the two Governments necessary; Her Majesty's Government to be so informed. | 1673 |
| 8 | Lord Sackville to Mr. Bayard | Oct. 30 | Acknowledging the receipt of the letter requesting his withdrawal and of the passport which it inclosed. | 1673 |
| 9 | Mr. Bayard to Mr. Phelps (No. 990). | Oct. 31 | Reflections upon the conduct of Lord Sackville; he has been informed that his official position is no longer acceptable; copies of the Sackville-Murchison correspondence, of the interviews with Lord Sackville, published in the New York Tribune, and the report of the Secretary of State to the President, inclosed | 1673 |
| 10 | Mr. Phelps to Mr. Bayard (No. 842). | Nov. 2 | Lord Salisbury informed of the Murchison letter and newspaper interviews reflecting upon the President and Senate of the United States; that public sentiment was aroused; that the United States Government declined intercourse through him and requested his recall; reply of Lord Salisbury that the letter being private was not sufficient cause for recall, and that action could not be taken until informed of the language and explanation of Lord Sackville; that a recall would ruin his prospects—not necessarily so a dismissal by the United States; believed that the British Government would neither act quickly nor decisively and would prefer action to be taken by the United States Government; This only inferred from the remarks of Lord Salisbury; the impossibility of Lord Sackville's remaining at Washington conceded by the London press at first, his dismissal now considered an affront to Great Britain; the language used by Lord Sackville, and details requested for Lord Salisbury; cablegrams to and from the Department; correspondence with Lord Salisbury and extracts from London papers inclosed. | 1676 |
| 11 | Same to same (No. 845).... | Nov. 7 | Correspondence in regard to the Sackville-Murchison incident given to press by the British Government, and will probably be laid before Parliament the 8th instant; opinions expressed in Parliament will be communicated; delay in publishing the correspondence of the Department until informed of the proposed action of Great Britain advised; cable dispatch, the published Sackville correspondence, and extracts from London papers, inclosed. | 1697 |

## SUPPLEMENT A—Continued.

### PAPERS RELATING TO THE CASE OF LORD SACKVILLE—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 12 | Mr. Bayard to Mr. Phelps.. | Nov. 20 | Lord Sackville's interviews with newspaper reporters held in Washington, and telegraphed to other places; the number of reporters unknown; newspaper accounts previously sent; no contradiction or retraction by Lord Sackville; wide-spread publication of interviews. | 1703 |
| 13 | Mr. Phelps to Mr. Bayard (No. 858). | Dec. 1 | Extract from the "Times" containing question asked in the House of Commons, and answer of Sir James Fergusson, with respect to the appointment of a new minister to Washington, and a leader from the Daily News inclosed. | 1704 |
| 14 | Same to same (No. 861)..... | Dec. 5 | Copy of note to Lord Salisbury concerning the dismissal of Lord Sackville, and covering papers connected therewith, inclosed. | 1705 |
| 15 | Same to same (No. 874)..... | Dec. 29 | Lord Salisbury informed that his note has been transmitted to the Department for its consideration, leaving it open to the Department to reply; the obligation of a Government to withdraw its minister at the request of the Government to which he is accredited stated simply to Lord Salisbury, without supporting argument; note from Lord Salisbury inclosed. | 1710 |
| | | 1889. | | |
| 16 | Same to same (No. 893)..... | Jan. 12 | Official correspondence of the British Government and article in the Morning Post inclosed. | 1712 |
| 17 | Same to same (901)..... | Jan. 16 | Extracts from the Times and Daily News in regard to the official published correspondence inclosed. | 1714 |
| 18 | Mr. Bayard to Mr. Phelps (No. 1054). | Jan. 30 | Agrees that the principle involved is more important than the particular case; desires not to discuss the sufficiency, but give the reasons for Lord Sackville's dismissal to his Government in a friendly way; Lord Sackville's offense interference in domestic politics; the Murchison letter and reply considered; the character of Lord Sackville's act not affected by the motive of his correspondent, and he aware that his letter would be shown to others; the correspondence not only interfering in domestic affairs, but impugning the motives of the President; the situation made worse by subsequent newspaper interviews, not publicly denied; Lord Sackville's excuse for not doing so; his private letter of denial not co-extensive with the language used, and appearing to make a personal issue, which can not be accepted; the President's motives again impugned in his letter to Lord Salisbury; the principle governing the recall and dismissal of ministers, and Lord Salisbury's position considered; case of Lord Stratford against it; Sir H. Bulwer's case not a parallel with the present; objection personal to Lord Sackville; the present issue not whether reason should be given for asking recall of a minister, but whether, when interference in domestic affairs has been alleged, the minister's Government has a right to decide his culpability; the Department's position is, as laid down by Calvo, that a minister should be recalled at request; no need to give reasons; if the offense be grave he may be dismissed, and also if not recalled at request; Lord Salisbury's position inconsistent with national independence; the nature of a minister; his dismissal not a cause of war; regret of the President at the incident. | 1718 |
| | Appendix..... | ..... | British official publication, United States, No. 4 (1888). | 1725 |

## SUPPLEMENT B.

### PAPERS RELATING TO THE TREATY OF EXTRADITION, SIGNED JUNE 25, 1886, BY THE PLENIPOTENTIARIES OF THE UNITED STATES AND GREAT BRITAIN.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 1 | Mr. Phelps to Mr. Bayard (No. 142). | 1885. Nov. 23 | Interview with Lord Salisbury for the purpose of renewing the negotiations; engaged in the meanwhile in reviewing the draught; objections to it submitted before taking ground on it with the British Government; objections to allowing extradition for the following grounds enumerated in the draft; in Article II for obtaining goods or money of $50 value by false pretenses; in Article II, receiving goods, etc., of $50 value, knowing them to have been obtained by false pretenses; in Article III, abduction and kidnapping; in Article IV, "for participation in any of the aforesaid crimes," etc.; objections to the following provisions: In Article III, that "neither government shall be required to grant extradition for an offense of which, as it is stated or described in the demand for extradition, it has jurisdiction;" in Article VII, that a fugitive, when extradited, may be tried for any previous offense enumerated in Article II; in Article VIII, that an indictment shall be prima facie sufficient evidence for extradition, subject to rebuttal. Delays will result from subordinate parts of the proposed treaty; submits a proposition to extend the treaty of 1842; the extension favored by Lord Salisbury, and can be immediately effected; arguments in favor of a concise treaty of extradition and against a too much elaborated one; proposed convention supplemental to the treaty of 1842 inclosed. | 1730 |
| 2 | Same to same (No. 307)..... | 1886. June 26 | The convention extending the provisions of the treaty of 1842, relating to extradition, signed; the convention substantially as approved, and so not submitted, to avoid delay; unobjectionable, but unnecessary clauses added; (1) extradition is made to extend to persons convicted; (2) four crimes added to the seven specified by treaty of 1842; other crimes, which should have been added, would have made agreement difficult; (3) the restriction of the application of the convention, as regards the added crimes, to those subsequently committed, usual; (4) no extradition for political offenses an established rule, and a provision to that effect unnecessary but harmless; (5) the clause allowing trial only for the offense named in the extradition papers, until opportunity to return has been given, approved by the Department, and necessary by act of Parliament; (6) Article VII superfluous, but harmless; only expressing the law that would any way apply; the convention understood by both parties not to prevent the negotiation of a more elaborate treaty; such a treaty not advisable; the convention and treaty of 1842 sufficient; copy of the convention inclosed. | 1740 |


## SUPPLEMENT C.

### PAPERS RELATING TO THE SEIZURE OF BRITISH SEALING VESSELS IN BEHRING SEA.


| | | | | |
|---|---|---|---|---|
| 1 | Sir L. S. Sackville West to Mr. Bayard. | 1886. Sept. 27 | Seizure of three British Columbian sealing schooners, the *Carolena*, *Onward*, and *Thornton*, by United States revenue officers reported; particulars requested | 1746 |
| 2 | Same to same..... | Oct. 21 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Protests against it in the name of his Government. | 1746 |

## SUPPLEMENT C—Continued.

**PAPERS RELATING TO THE SEIZURE OF BRITISH SEALING-VESSELS IN BEHRING SEA—Continued.**

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 3 | Earl of Iddesleigh to Sir L. S. Sackville West. | 1886. Oct. 30 | Seizure of the *Carolena*, *Onward*, and *Thornton*, by United States revenue officers: Report on, awaited; further details received, and the case to be presented to the United States Government; the schooners seized in the open sea, 60 miles from shore; the crew of two turned adrift at San Francisco, that of the third, the seal skins and schooners kept at Oonalaska; account as published in the Alaskan; sovereignty over all Behring Sea east of the westerly boundary of Alaska apparently claimed by the United States, and British vessels seized in support of it; the seizure a violation of international law; Mr. Bayard to be acquainted with these facts and requested, if they be correct, that reparation be made for the seizure and consequent losses. | 1746 |
| 4 | Mr. Bayard to Sir L. S. Sackville West. | Nov. 12 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Delay owing to non-receipt of information from the Treasury Department; still awaiting report of the trial and judgment; will send it when received; communications acknowledged. | 1748 |
| 5 | Sir L. S. Sackville West to Mr. Bayard. | Dec. 7 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Vessels preparing for seal fishing; desires to know if they will be seized for fishing outside the territorial waters of Alaska, and that assurance be given that they will not, pending settlement of the question. | 1749 |
| 6 | Same to same..... | 1887. Jan. 9 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Instructed to again bring the matter to Mr. Bayard's attention; previous correspondence; the vessels seized 60 miles from shore; the masters of the seized vessels imprisoned and fined; this a violation of international law; if these facts are true, reparation expected; hopes the cause of delay has been removed. | 1749 |
| 7 | Mr. Bayard to Sir L. S. Sackville West. | Jan. 12 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Information asked of the Attorney-General as soon as requested by Sir Lionel; telegram sent to Portland to expedite matters; the circumstances of the seizure not known, but must be devoid of uncertainty; no avoidance of international obligation need be apprehended. | 1751 |
| 8 | Sir L. S. Sackville West to Mr. Bayard. | Feb. 1 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Requests to know if papers in regard to, have been received. | 1751 |
| 9 | Mr. Bayard to Sir L. S. Sackville West. | Feb. 3 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Papers expected in a fortnight; discontinuance of all pending proceedings, and release of the vessels and prisoners ordered by the President, without conclusion of any questions involved in the seizures. | 1752 |
| 10 | Sir L. S. Sackville West to Mr. Bayard. | Feb. 4 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Acknowledges Mr. Bayard's note of February 3. | 1752 |
| 11 | Same to same..... | Apr. 4 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Requests to know if seal schooners will be molested when not near land, and if the papers relating to the trial of those seized have been received. | 1753 |
| 12 | Mr. Bayard to Sir L. S. Sackville West. | Apr. 12 | Seizure of the *Carolena*, *Onward*, and *Thornton* by United States revenue officers: The records of the trial under examination at the Department; the framing of regulations governing the seal fisheries delayed by their remoteness and special peculiarities; United States laws on the subject in Revised Statutes, sections 1956–1971, in force for seventeen years, and but one violation; regulations to prevent killing of seals will be communicated when determined on; sections 1956–1971, Revised Statutes, inclosed. | 1753 |
| 13 | Sir L. S. Sackville West to Mr. Bayard. | July 8 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Copy of judicial record requested. | 1756 |
| 14 | Mr. Bayard to Sir L. S. Sackville West. | July 11 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Two copies of the judicial proceedings in regard to, inclosed. | 1757 |

## SUPPLEMENT C—Continued.

**PAPERS RELATING TO THE SEIZURE OF BRITISH SEALING-VESSELS IN BEHRING SEA—Continued.**

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| 15 | Sir L. S. Sackville West to Mr. Bayard. | 1887. Aug. 11 | Seizure of the British sealing schooners *Grace*, *Dolphin*, and *W. P. Sayward* by United States revenue officers, far from Sitka, reported by the British commander-in-chief, and also that several others were seen being towed in; the understanding of the British Government, from Mr. Bayard's note of February 3, was that pending the settlement of the question no seizure would be made. | 1788 |
| 16 | Mr. Bayard to Sir L. S. Sackville West. | Aug. 13 | Seizure of the *Grace*, *Dolphin*, and *W. P. Sayward*: No promise in the note of February 3 that pending a settlement no seizures would be made; no information on the subject: note of February 3 had reference to previous seizures; will ascertain whether the circumstances of the last seizures will admit of their being released. | 1788 |
| 17 | Marquis of Salisbury to Sir L. S. Sackville West. | Sept. 10 | Seizure of the *Carolena*, *Onward*, and *Thornton* by United States revenue officers: Summary of previous instructions and correspondence of Sir Lionel with Mr. Bayard; Mr. Bayard understood to say there would be no more seizures pending a settlement; subsequent seizures reported; no justification for the condemnation of the three vessels; they were seized outside the limit of maritime jurisdiction; the claim of Russia to jurisdiction over Behring Sea not acknowledged by England or the United States, and therefore no right over it was received by the United States with the purchase of Alaska; England not affected by agreements of the United States with Russia; the position of the United States in regard to the claim of Russian jurisdiction shown by their official correspondence with the Russian minister; this dispatch to be communicated to Mr. Bayard; compensation to the crews and owners of the vessels expected. | 1789 |
| 18 | Sir L. S. Sackville West to Mr. Bayard. | Sept. 29 | Seizure of the *Carolena*, *Onward*, and *Thornton* by United States revenue officers: The schooners not released; reason desired. | 1792 |
| 19 | Same to same..... | Oct. 4 | Seizure of the *Alfred Adams*: The *Adams* boarded by United States revenue officers, the skins and arms on board confiscated, and a letter given the captain to be delivered to the United States marshal at Sitka, but which he sent to Lord Landsdowne; the envelope worn through during transmission; the letter inclosed. | 1792 |
| 20 | Mr. Bayard to Mr. Garland. | Oct. 7 | Seizure of the *Alfred Adams*: Transmits the British minister's note of October 4. | 1794 |
| 21 | Same to same..... | Oct. 8 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Transmits note of Sir Lionel West, complaining that they have not been released; information requested. | 1794 |
| 22 | Mr. Bayard to Sir L. S. Sackville West. | Oct. 11 | Seizure of the *Carolena*, *Onward*, and *Thornton* by United States revenue officers: Awaiting an answer from the Attorney-General in regard to delay in releasing the vessels; the delay not due to the Government. | 1795 |
| 23 | Sir L. S. Sackville West to Mr. Bayard. | Oct. 12 | Seizure of the *Grace*, *Dolphin*, and *W. P. Sayward*: The release of the vessels requested, reserving the question of compensation; deposition of the *Sayward's* mate that no seals had been taken in Behring Sea inclosed. | 1795 |
| 24 | Mr. Garland to Mr. Bayard. | Oct. 12 | Seizure of the *Carolena*, *Onward*, and *Thornton*: First telegram directing their release thought not genuine by the marshal and not obeyed; a second sent. | 1796 |
| 25 | Mr. Bayard to Sir L. S. Sackville West. | Oct. 13 | Seizure of the *Carolena*, *Onward*, and *Thornton*: The first telegram directing their release through mistake not obeyed; a second sent; regret that the delay was due to officials of the Government. | 1796 |
| 26 | Same to same..... | Oct. 13 | Seizure of the *Grace*, *Dolphin*, and *W. P. Sayward*: Note requesting their release received; the facts stated in the inclosed deposition will be investigated. | 1797 |

## SUPPLEMENT C—Continued.

**PAPERS RELATING TO THE SEIZURE OF BRITISH SEALING-VESSELS IN BEHRING SEA—Continued.**

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1887. | | |
| 27 | Mr. Bayard to Mr. Garland. | Oct. 13 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Surprised that they were not released; the British minister informed. | 1797 |
| 28 | Mr. Garland to Mr. Bayard. | Oct. 15 | Seizure of the *Carolena*, *Onward*, and *Thornton*: Telegram directing their release sent before receipt of Mr. Bayard's letter; a letter sent since to the marshal. | 1797 |
| 29 | Sir L. S. Sackville West to Mr. Bayard. | Oct. 19 | Seizure of the *Alfred Adams*, and the continuation of such proceeding protested against. | 1798 |
| 30 | Mr. Bayard to Sir L. S. Sackville West. | Oct. 22 | Seizure of the *Alfred Adams*: Protest of the 19th instant received. | 1798 |
| 31 | Sir L. S. Sackville West to Mr. Bayard. | Oct. 26 | Seizure of the *Alfred Adams*, report of the Canadian minister of marine and fisheries on, and other papers relating to the, inclosed. | 1798 |
| | | 1888. | | |
| 32 | Mr. Garland to Mr. Bayard. | Mar. 9 | Seizure of the *Carolena* etc.: The bond indicated in the memorandum can be given; doubtful at first as to cases of forfeiture; the form of the bond; memorandum inclosed. | 1803 |
| 33 | Sir L. S. Sackville West to Mr. Bayard. | Mar. 26 | Preservation of fur-seals: The Russian Government communicated with in reference to the proposed concerted action of the United States, Great Britain, and Russia; this action not an admission of the claims of the United States to jurisdiction in Behring Sea, nor affecting claims for compensation to the vessel seized. | 1804 |
| 34 | Mr. Bayard to Sir L. S. Sackville West. | Mar. 30 | Preservation of fur-seals: Acknowledges receipt of Sir Lionel West's note of March 26. | 1804 |
| 35 | Sir L. S. Sackville West to Mr. Bayard. | Apr. 2 | Seizure of British vessels fishing in Behring Sea, report that the United States has ordered; importance of enabling the British Government to contradict the report. | 1805 |
| 36 | Same to same..... | Apr. 18 | Claims for compensation to British schooners seized and warned off by United States authorities in Behring Sea just received; wishes to know if the United States will agree to a mixed commission to inquire into the right to compensation, and amount. | 1805 |
| 37 | Mr. Bayard to Sir L. S. Sackville West. | Apr. 21 | Claims for compensation to vessels seized: The cases in court, pending appeal; better to await the decision of the appellate court. | 1805 |
| 38 | Sir L. S. Sackville West to Mr. Bayard. | Apr. 30 | Seizure of the *Carolena*, etc.: Proposes extension of time for appealing the cases until diplomatic negotiations for their settlement can be had, in the failure of which, the legal remedy will not be prejudiced; the skippers to be released on security; this understood to have been done. | 1805 |
| 39 | Same to same..... | May 25 | Seizure of the *Carolena*, etc.: Reply asked to the above note of April 30. | 1806 |
| 40 | Mr. Bayard to Sir L. S. Sackville West. | May 28 | Seizure of the *Carolena*, etc., interview requested in the afternoon in regard to. | 1806 |
| 41 | Same to same..... | May 28 | Seizure of the *Carolena*, etc.: Delay in answering note of the 30th ultimo, due to desire for explanation of the word "skippers;" no "skippers" detained, but the proceedings *in rem*; an extension of time for appeal favored, but not within the power of the Executive; the prosecution will extend the time by agreement with defendants as far as possible. | 1806 |
| 42 | Sir L. S. Sackville West to Mr. Bayard. | May 28 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: The proctors of some of the vessels having failed to appeal, the sentences have become final; the right of release on bond has been lost, and only diplomatic remedy left. | 1807 |
| 43 | Mr. Bayard to Sir L. S. Sackville West. | May 29 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Reply sent to notes of April 30 and May 25; note of 28th May received; regrets the failure to take appeal; will ask the Attorney-General what can be done. | 1807 |
| 44 | Mr. Bayard to Mr. Garland. | May 29 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Incloses copy of the British minister's note of 28th instant; can the decrees of condemnation be reviewed? | 1808 |
| 45 | Mr. Garland to Mr. Bayard. | May 31 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: No method known by which the decrees of condemnation can be reviewed. | 1808 |

## SUPPLEMENT C—Continued.

### PAPERS RELATING TO THE SEIZURE OF BRITISH SEALING-VESSELS IN BEHRING SEA—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 46 | Sir L. S. Sackville West to Mr. Bayard. | Aug. 6 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Four British ships taken to Port Townsend for sale in consequence of the judge refusing to bond the owners on the ground that the application was too late; requests postponement of sale pending decision as to legality of seizure. | 1808 |
| 47 | Mr. Bayard to Mr. Jenks .. | Aug. 8 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Note of Sir L. West requesting postponement of sale of vessels inclosed; hopes delay will be granted, if it will not cause irreparable loss. | 1809 |
| 48 | Mr. Bayard to Sir L. S. Sackville West. | Aug. 8 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Copy of note asking postponement of sale of vessels sent the Attorney-General. | 1809 |
| 49 | Mr. Jenks to Mr. Bayard... | Aug. 10 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Postponement of sale ordered, and the marshal directed to take bonds in lieu of the vessels. | 1809 |
| 50 | Mr. Bayard to Sir L. S. Sackville West. | Aug. 13 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Sale of the vessels ordered to be postponed, and marshal ordered to take bonds in lieu. | 1810 |
| 51 | Sir L. S. Sackville West to Mr. Bayard. | Aug. 16 | Seizure of the *Carolena*, etc.: Mr. Bayard's note of August 13 received. | 1810 |
| 52 | Mr. Jenks to Mr. Bayard... | Sept. 3 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Opinion regarding immediate sale of three vessels requested; copies of letters from the United States marshal inclosed. | 1810 |
| 53 | Mr. Bayard to Sir L. S. Sackville West. | Sept. 10 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Opinion as to immediate sale asked of the Acting Attorney-General; his letter inclosed and an opinion on it requested. | 1811 |
| 54 | Mr. Jenks to Mr. Bayard... | Sept. 26 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: The three vessels transferred to Marshal Hamilton and anchored at Port Townsend; advice as to their sale requested, owing to the cost of keeping them and diminution in value; letters of Mr. Grant and Mr. Hamilton to Mr. Garland inclosed. | 1812 |
| 55 | Mr. Bayard to Sir L. S. Sackville West. | Sept. 27 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Letter from the Attorney-General stating that the four vessels are at Port Townsend; none bonded; the appraisement of three said to be too high; the cost of keeping and advancing season make a sale necessary; assurances against loss desired if the sale be longer postponed. | 1813 |
| 56 | Mr. Garland to Mr. Bayard. | Oct. 11 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Advice as to expediency of selling vessels requested; letter from United States attorney for Alaska inclosed. | 1814 |
| 57 | Lord Sackville to Mr. Bayard | Oct. 12 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*: Reappraisement of the *Grace* and *Dolphin*, and acceptance of the bonds of the owner of the *Anna Beck* requested by the privy council of Canada; extract from the minutes of the privy council inclosed. | 1815 |
| 58 | Mr. Rives to Mr. Garland... | Oct. 17 | Seizure of the *Grace*, *Dolphin*, and *Anna Beck*: British minister's note asking re-appraisement, etc., inclosed; views requested. | 1815 |
| 59 | Mr. Garland to Mr. Bayard.. | Oct. 20 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: The libels heard on stipulations of the masters' attorney; the vessels condemned and ordered to be sold; time for appeal expired; the owners desirous of a sale; the aggregate tonnage, 279; vessels may be a total loss if kept; advises an early sale. | 1816 |
| 60 | Mr. Bayard to Mr. Garland.. | Oct. 27 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Advises immediate sale. | 1816 |
| 61 | Mr. Garland to Mr. Bayard.. | Nov. 17 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Letter advising sale received; United States marshal directed to sell as speedily as possible. | 1817 |
| 62 | Mr. Bayard to Mr. Garland.. | Nov. 17 | Seizure of the *Grace*, *Dolphin*, *Anna Beck*, and *Ada*: Mr. Garland's letter of October 17 received; desires to be informed of steps taken. | 1817 |

## SUPPLEMENT C—Continued.

### PAPERS RELATING TO THE SEIZURE OF BRITISH SEALING VESSELS IN BEHRING SEA—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | 1888. | | |
| 63 | Mr. Herbert to Mr. Bayard.. | Nov. 23 | Seizure of the *Grace, Dolphin, Anna Beck*, and *Ada*: The owners of the *Ada* do not object to the appraisement. | 1817 |
| 64 | Mr. Bayard to Mr. Garland.. | Nov. 27 | Seizure of the *Grace. Dolphin, Anna Beck*, and *Ada*: The owners of the *Ada* do not object to the appraisement; Mr. Herbert's note of the 27th ultimo inclosed. | 1818 |
| 65 | Mr. Bayard to Mr. Herbert .. | Nov. 28 | Seizure of the *Grace, Dolphin, Anna Beck*, and *Ada*: Note of the 23d instant received. | 1818 |
| 66 | Mr. Herbert to Mr. Bayard .. | Dec. 5 | Seizure of the *Grace, Dolphin, Anna Beck*, and *Ada*: Incloses copy of Lord Sackville's note of October 12, to which no answer has been received; an answer requested. | 1818 |
| 67 | Mr. Bayard to Mr. Herbert .. | Dec. 10 | Seizure of the *Grace, Dolphin, Anna Beck*, and *Ada*: Lord Sackville's note of October 12 requesting re-appraisement communicated to the Attorney-General, by whom an immediate sale was advised; the opinion concurred in by the Department; as delay would only result in loss, the sale ordered; further information requested, and when received will be communicated. | 1818 |
| 68 | Mr. Stevens to Mr. Rives (No. 388). | Dec. 31 | Seizure of the *Araunah* off Copper Island: All the papers in regard to, given Mr. Stevens by Captain Sieward; all the latter's expenses paid by British agents, except those paid by the Russian Government, and a small personal sum; the most pertinent papers inclosed. | 1817 |


## SUPPLEMENT D.

### PAPERS RELATING TO THE NEGOTIATIONS FOR THE CONCLUSION OF TREATIES FOR THE PROTECTION OF FUR-SEALS IN BEHRING SEA.


| | | | | |
|---|---|---|---|---|
| | | | FRANCE. | |
| | | 1887. | | |
| 1 | Mr. Bayard to Mr. Vignaud (No. 256). | Aug. 19 | Fur-seals: Points out danger of indiscriminate killing of; instructs legation to invite French Government to enter into a convention with the United States to restrict the taking of; identic instructions have been sent to United States legations in Germany, Great Britain, Japan, Russia, Sweden, and Norway. | 182[illegible] |
| 2 | Mr. McLane to Mr. Bayard (No. 490). | Oct. 22 | Fur-seals: The French Government is willing to consider favorably any project of a convention for the protection of; incloses a note from Mr. Flourens to that effect. | 182[illegible] |
| 3 | Mr. Bayard to Mr. McLane (No. 271). | Nov. 18 | Fur-seals: The Department is gratified at the French Government's response; further instructions will be sent. | 182[illegible] |
| | | 1888. | | |
| 4 | Same to same (No. 293) ..... | Feb. 7 | Fur-seals: Incloses printed copies of instruction No. 782 to minister of the United States at London discussing the question of the protection of. | 182[illegible] |
| | | | GERMANY. | |
| | | 1887. | | |
| 5 | Mr. Coleman to Mr. Bayard (No. 498). | Sept. 1 | Fur-seals: Incloses copy of note to the German Government, inviting it to enter into a convention with the United States to restrict the taking of. | 1826 |
| | | | GREAT BRITAIN. | |
| 6 | Mr. Phelps to Mr. Bayard (No. 618). | Nov. 12 | Fur-seals: Mr. Phelps states that he has had a conversation with Lord Salisbury on the subject of the protection of, and that Great Britain acquiesces in the proposal of the United States, but desires a sketch of the system of regulations proposed. | 1827 |

## SUPPLEMENT D—Continued.

**PAPERS RELATING TO THE NEGOTIATIONS FOR THE CONCLUSION OF TREATIES FOR THE PROTECTION OF FUR-SEALS IN BEHRING SEA—Continued.**

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | GREAT BRITAIN—continued. | |
| 7 | Mr. Bayard to Mr. Phelps (No. 733). | 1887. Nov. 25 | Fur-seals: The Department is gratified at the acceptance by the British Government of the proposal made by the United States; the subject will receive further attention. | 1827 |
| 8 | Same to same (No. 782)..... | 1888. Feb. 7 | Fur-seals: Describes habits and life of; proposes to prevent the killing of, with fire-arms, etc., between April 15 and November 1, anywhere north of 50° north latitude and between 160° west of Greenwich and 170° east of same meridian of longitude; shows the result of the absence of protection in the South Pacific; incloses memorandum by Mr. Clark on the fur-seal fisheries, also a letter from Mr. H. W. Elliott on the same subject. | 1828 |
| 9 | Mr. Phelps to Mr. Bayard (No. 690). | Feb. 18 | Fur-seals: Has communicated copy of instruction No. 782 to Lord Salisbury, and asked for an interview with him; has also asked for an interview with the Russian embassador; asks whether legislation by Congress would not be needed to carry out proposed regulations. | 1836 |
| 10 | Same to same (No. 692)..... | Feb. 25 | Fur-seals: Has had interviews with Lord Salisbury and with the Russian embassador; Lord Salisbury assents to proposed arrangement, and the Russian embassador regards it favorably and will communicate with his Government. | 1836 |
| 11 | Mr. Bayard to Mr. Phelps (No. 810). | Mar. 2 | Fur-seals: Refers to the advisability of a convention; legislation to carry out regulations would probably be needed; thinks a system of joint policing of the seas may be devised, as in slave-trade convention of 1862 with Great Britain; incloses copy of North Sea fisheries treaty of 1882. | 1837 |
| 12 | Mr. White to Mr. Bayard (telegram). | Apr. 7 | Fur-seals: Will have an interview shortly with Lord Salisbury and Mr. de Staal; has just learned from Mr. de Staal that the Russian Government wished to include the seas about the Commander Islands, and the sea of Okhotsk. | 1838 |
| 13 | Same to same (No. 720) . ... | Apr. 7 | Fur-seals: Repeats statements of telegram of April 7. | 1838 |
| 14 | Mr. Bayard to Mr. White (telegram). | Apr. 9 | Fur-seals: The United States do not object to the extension of the arrangement to the whole of Behring Sea. | 1839 |
| 15 | Same to same (No. 849)..... | Apr. 18 | Fur-seals: Repeats statements of his telegram of April 9; Okhotsk Sea can be included. | 1840 |
| 16 | Mr. White to Mr. Bayard (No. 725). | Apr. 20 | Fur-seals: Conference held; Mr. de Staal proposes the prohibition of importation into the protected area of alcoholic drinks, fire-arms, gunpowder, and dynamite; Lord Salisbury proposes to include that part of sea of Okhotsk and of the Pacific north of north latitude 47° and to close the protected season on October 1 instead of November 1. | 1840 |
| 17 | Mr. Bayard to Mr. White (No. 864). | May 1 | Fur-seals: The Department does not object to the extension of the area, and proposes October 15 as close of the protected season; the convention should contain a clause providing for subsequent adhesion of other powers; thinks it advisable to regulate the subject of prohibited imports separately. | 1840 |
| 18 | Mr. White to Mr. Bayard (No. 767). | June 6 | Fur-seals: The Canadian Government has cautioned sealers in Behring Sea against using force if interfered with by United States officials; incloses extract from The Times. | 1841 |
| 19 | Same to same (No. 786)..... | June 20 | Fur-seals: Called on Lord Salisbury to discuss the terms of the proposed convention; he was awaiting a memorandum on the subject from the Canadian Government, and could do nothing until it was received; it had not been received at the date of the dispatch; incloses an extract from The Times containing questions asked in Parliament on the subject of the seal fisheries. | 1842 |

## SUPPLEMENT D—Continued.

**PAPERS RELATING TO THE NEGOTIATIONS FOR THE CONCLUSION OF TREATIES FOR THE PROTECTION OF FUR-SEALS IN BEHRING SEA—Continued.**

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | GREAT BRITAIN—continued. | |
| 20 | Mr. Bayard to Mr. Phelps (No. 948). | 1888. Aug. 9 | Fur-seals: Incloses copy of No. 491 from the United States minister to Japan in regard to the attack by the Russians on the British schooner *Nemo*, engaged in otter hunting off Copper Island; also reporting the request of the Japanese Government that its subjects should not be shipped on vessels engaged in otter hunting. | 1843 |
| 21 | Mr. Rives to Mr. Phelps (No. 982). | Oct. 23 | Fur-seals: Incloses copy of No. 374 from United States consul at Victoria, British Columbia, reporting the seizure of the British schooner *Araunah* off Copper Island by the Russians, the attack on the *Nemo*, and the catch of the Victorian sealers. | 1843 |
| 22 | Letter from Ottawa in Boston Herald. | ..... .. | Refers to destruction of whales in Hudson Bay by New England whalers; proposes high license as a remedy; if the United States can claim jurisdiction over Behring Sea, Great Britain can claim it over Hudson and Boothia Bays. | 1844 |
| | | | JAPAN. | |
| 23 | Mr. Hubbard to Mr. Bayard (No. 387). | 1887. Sept. 28 | Fur-seals: In reply to Department's instruction states that he has proposed to Japan to enter into a convention for the protection of, waiving all exceptional marine jurisdiction that might be claimed by the United States. | 1845 |
| 24 | Same to same (telegram).... | Sept. 29 | Fur-seals: Requests for the Japanese Government copies of the Treasury regulations and contracts concerning the seal fisheries and a more definite statement of the protection to be extended to them. | 1845 |
| 25 | Same to same (No. 388) ..... | Sept. 29 | Fur-seals: The Japanese Government is anxious to enter into the proposed convention, also into a similar one for the protection of the seal fisheries of their own northern islands; repeats statements made in his No. 387 and his telegram of September 29. | 1845 |
| 26 | Mr. Bayard to Mr. Hubbard (No. 156). | Sept. 30 | Fur-seals: The Department is gratified to infer from his telegram of September 29 that Japan is ready to negotiate; a memorandum is now being prepared. | 1846 |
| 27 | Mr. Hubbard to Mr. Bayard (No. 393). | Oct. 10 | Fur-seals: Incloses copies of his note to Count Ito and the latter's reply in regard to the proposed convention; Japan desires to protect the sea-otter and to enlarge the protected area so as to embrace its habitat. | 1846 |
| 28 | Mr. Bayard to Mr. Hubbard (No. 171). | Nov. 21 | Fur-seals: The Department is pleased to learn that Japan is ready to negotiate; few of the Governments addressed have so far replied, and their answers are awaited before sending further instructions to him. | 1848 |
| 29 | Mr. Hubbard to Mr. Bayard (No. 483). | 1888. June 23 | Fur-seals: States that he has received nothing since No. 171 on the subject; Japan has inquired when the United States will resume the consideration of the question; incloses copy of his note replying to Count Ito's. | 1848 |
| 30 | Same to same (No. 491) ..... | July 13 | Fur-seals: Incloses copy of a note from Count Okuma requesting that he will instruct United States consuls not to ship Japanese on American vessels engaged in otter or seal hunting; describes the attack on the *Nemo* off Copper Island; incloses copy of his instruction to the consul-general of the United States at Tokio. | 1849 |
| 31 | Same to same (No. 492) ..... | July 13 | Fur-seals: Japan desires to know the nature of the consultation going on in London with a view to instructing its minister to take part therein, if it is of the nature of an international conference; incloses copy of Count Okuma's note and of his reply. | 1851 |
| 32 | Mr. Bayard to Mr. Hubbard (No. 223). | July 18 | Fur-seals: In reply to Mr. Hubbard's No. 483 states that negotiations with Japan have been delayed by the protraction of the negotiation with Great Britain and Russia; in the mean time it might be well to ascertain the views of the Japanese Government respecting the protection of the sea-otter. | 1853 |

## SUPPLEMENT D—Continued.

PAPERS RELATING TO THE NEGOTIATIONS FOR THE CONCLUSIONS OF TREATIES FOR THE PROTECTION OF FUR-SEALS IN BEHRING SEA—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | JAPAN—continued. | |
| 33 | Same to same (No. 232) ..... | 1888. Aug. 9 | Fur-seals: In reply to Mr. Hubbard's No. 492 states that negotiations are still pending at London owing to the obstruction of Canada; the convention with Japan will have to be framed so as to protect the sea-otter, and Japan's views on that question are desired. | 1853 |
| | | | RUSSIA. | |
| 34 | Mr. Wurts to Mr. Bayard (No. 139). | 1887. Sept. 3 | Fur-seals: Has communicated to the Russian Government the invitation of the United States to enter into a convention for the protection of. | 1854 |
| 35 | Mr. Lothrop to Mr. Bayard (No. 151). | Dec. 8 | Fur-seals: Incloses a copy of a note from Mr. de Giers accepting the proposal of the United States to enter into a convention on the subject; presents the views entertained in Russia in regard to the question. | 1854 |
| 36 | Same to same (No. 161) ..... | 1888. Feb. 22 | Fur-seals: States that he has communicated to the Russian Government the request that the Russian ambassador at London should co-operate with Mr. Phelps in respect to the subject. | 1856 |
| 37 | Same to same (No. 164) ..... | Mar. 12 | Fur-seals: States that the Russian ambassador at London has been instructed to co-operate with Mr. Phelps. | 1856 |
| | | | SWEDEN AND NORWAY. | |
| 38 | Mr. Magee to Mr. Bayard (No. 118). | Mar. 20 | Fur-seals: States that as Sweden and Norway do not engage in the catching of, the Royal Government does not think it necessary to enter into any convention; it proposes that the convention may be so framed that other powers may adhere afterwards. | 1856 |

## SUPPLEMENT E.

### PART I.

PAPERS RELATING TO DIFFERENTIAL RATES OF TONNAGE DUES.

| | | | | |
|---|---|---|---|---|
| | Message from the President to Congress. | 1889. Jan. 14 | Incloses a report from the Secretary of State with correspondence respecting the imposition of differential rates of tonnage dues under the fourteenth section of act of June 26, 1884, and under the act of June 19, 1886, on vessels entering ports of the United States from foreign countries. | 1857 |
| | | | BELGIUM. | |
| 1 | Mr. Tree to Mr. Bayard (No. 26). | 1885. Dec. 13 | States that he has asked Baron Lambermont for a construction of the "favored-nation" clause, and that the latter replied that as the language differed in different treaties it was not possible to give a general construction; Mr. Tree thinks that the concession made in section 14 of the act of June 26, 1884, is geographical in its character and not national. | 1866 |
| 2 | Mr. Porter to Mr. Tree (No. 20). | 1886. Jan. 2 | States that Mr. Tree's construction of section 14 agrees with that taken by the President in his message to Congress; observes that if the 3-15 rate of tonnage dues be granted to Belgian vessels coming from Belgian ports under the "favored-nation" clause of the treaty, it would be to accord a favor to them which would not be granted to United States vessels, they having to pay the 6-30 rate under the law when coming from Belgian ports. | 1867 |

## SUPPLEMENT E—Continued.

### PAPERS RELATING TO DIFFERENTIAL RATES OF TONNAGE DUES—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | BELGIUM—continued. | |
| 3 | Mr. Bayard to Mr. Tree (No. 72). | 1887. Jan. 5 | Incloses copies of correspondence with legation of Sweden and Norway at Washington on same subject; the United States propose to make Belgium the offer contemplated by section 11 of the act of June 19, 1886. | 1867 |
| 4 | Mr. Tree to Mr. Bayard (No. 196). | Jan. 24 | Acknowledges No. 72 | 1868 |
| | | | *Correspondence with the Legation of Belgium at Washington.* | |
| 5 | Mr. de Bounder to Mr. Bayard. | 18·5. June 19 | States that section 14 of the act of June 26, 1884, grants the 3-15 rate of tonnage dues to vessels coming from ports of Central and North America, Mexico, Colombia, and of the British possessions, and imposes the 6-30 rate on vessels coming into the United States from all other ports; under the "favored-nation" clause of the Belgian treaty claims the 3-15 rate for vessels coming from Belgian ports; in case it be shown that no tonnage or light-house dues are exacted of American vessels in Belgian ports claims, under the second paragraph of section 14, absolute exemption from payment of tonnage dues for Belgian vessels in United States ports. | 1868 |
| 6 | Mr. Bayard to Mr. de Bounder. | Nov. 7 | States that the subject has been submitted to the Attorney-General, who holds that the discrimination is purely geographical, and is not national; the President does not, therefore, admit Belgium's right to claim the 3-15 rate under the "favored-nation" clause. | 1869 |
| | | | DENMARK. | |
| | | | *Correspondence with the Legation of Denmark at Washington.* | |
| 7 | Mr. de Lövenörn to Mr. Bayard. | 1885. Aug. 27 | Same claim and same arguments essentially as that made in Belgian minister's note of June 19, 1885. | 1870 |
| 8 | Mr. Bayard to Mr. de Lövenörn. | Nov. 7 | Same reply as that made to the Belgian minister on the same date. | 1871 |
| | | | GERMANY. | |
| 9 | Mr. Bayard to Mr. Pendleton (No. 181). | 1887. Jan. 5 | Refers to the claim made by the German Government to the 3-15 rate of tonnage dues; incloses correspondence with the legation of Sweden and Norway; refers to the request of the Netherlands for the reciprocal abolition of tonnage dues in certain ports under section 11 of the act of June 19, 1886. | 1871 |
| | | | *Correspondence with the Legation of Germany at Washington.* | |
| 10 | Mr. von Alvensleben to Mr. Bayard. | 1885. Aug. 3 | Same claim and same argument essentially as that made in the Belgian minister's note of June 19, 1885; asserts that the treaty of May 1, 1828, between Prussia and the United States, is valid for all Germany. | 1872 |
| 11 | Mr. Bayard to Mr. von Alvensleben. | Nov. 7 | Same reply as that made to the Belgian minister on the same date. | 1873 |
| 12 | Count Leyden to Mr. Bayard. | Nov. 17 | Acknowledges Mr. Bayard's note of November 7, and states that its contents have been brought to the knowledge of the Imperial Government. | 1874 |
| 13 | Mr. von Alvensleben to Mr. Bayard. | 1886. Feb. 16 | States that the line of argument taken by the United States in Mr. Bayard's note of November 7, 1885, is unusual, and is calculated to destroy the value of the "favored nation" clause; declares that Germany collects no tonnage tax; quotes a decision of the Secretary of the Treasury of May 11, 1885, in favor of his position; asks a reconsideration of the matter. | 1874 |

## SUPPLEMENT E—Continued.

PAPERS RELATING TO DIFFERENTIAL RATES OF TONNAGE DUES—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | GERMANY—continued. | |
| | | | *Correspondence with the Legation of Germany at Washington*—Continued. | |
| 14 | Mr. Bayard to Mr. von Alvensleben. | 1886. Mar. 4 | Acknowledges Mr. von Alvensleben's note of February 16; states that it will receive consideration. | 1876 |
| 15 | Mr. von Alvensleben to Mr. Bayard. | Aug. 1 | Refers to act of June 19, 1886; states that while intended to be based on reciprocity, the idea is not logically carried out; the countries to which the three-fifteenths rate is granted may charge more than that rate on American vessels in their ports, but Germany is obliged to show that her rate of tonnage duty is below the six-thirtieths rate in order to obtain a reduction from that rate; alleges that this is in contravention of the "favored nation" clause of the Prussian treaty with the United States; declines to accept the reasoning of Mr. Bayard's note of November 7, 1885, and asks for a further reply. | 1877 |
| | | | ITALY. | |
| | | | *Correspondence with the Legation of Italy at Washington.* | |
| 16 | Baron de Fava to Mr. Bayard | Feb. 16 | Same claim and same argument essentially as that made in Belgian minister's note of June 19, 1885. | 1878 |
| 17 | Mr. Bayard to Baron de Fava | Mar. 12 | Same reply as that made in note of November 7, 1885, to the Belgian minister. | 1880 |
| | | | PORTUGAL. | |
| | | | *Correspondence with the Legation of Portugal at Washington.* | |
| 18 | Mr. Bayard to Viscount das Nogueiras. | 1885. May 21 | Acknowledges the minister's note of March 15, previous, requesting, under the "favored nation" clause of the treaty with Portugal, the same favors for vessels coming from ports of Portugal as were granted under the President's proclamation of January 31 last to vessels from ports of Mexico and Central America; quotes opinion of Secretary of the Treasury; desires information as to amounts of tonnage duties levied by Portugal. | 1881 |
| 19 | Same to same..... | Nov. 7 | Same reply made to the minister's note of March 15 as that made in Mr. Bayard's note to the Belgian minister of November 7. | 1882 |
| | | | SWEDEN AND NORWAY. | |
| 20 | Mr. Porter to Mr. Magee (No. 49). | 1887. Aug. 5 | Asks whether there is any difference in the rates of tonnage dues charged in the ports of Sweden and in the ports of Norway; shows that at one time the rate was adjusted in the ports of Norway on a geographical basis, and states that the United States claimed the most favorable rate under Article VIII of the treaty of 1827, and that their claim was conceded. | 1883 |
| 21 | Mr. Magee to Mr. Bayard (No. 101). | Nov. 7 | Incloses translation of sections of the ordinances of Sweden and of Norway relating to tonnage dues; gives the classification adopted in Norway in 1827, which is still in force. | 1884 |
| 22 | Mr. Bayard to Mr. Magee (No. 55). | Nov. 28 | The Department wishes to know whether the discriminating tonnage duty which was charged in 1827 on vessels entering Norwegian ports is still levied on vessels of other nationalities than those of the United States. | 1885 |
| 23 | Mr. Magee to Mr. Bayard (No. 106). | Dec. 14 | Since 1827 no discriminating tonnage duties have been charged in Norway, and no geographical distinction is made. | 1886 |
| 24 | Same to same (No. 133) ... | 1888. July 17 | He has received a note from the minister of foreign affairs, stating that the discriminating tonnage duty levied in Norway in favor of vessels trading with ports in the White Sea and Arctic Ocean has been removed; incloses copy of the note. | 1886 |

## SUPPLEMENT E—Continued.

### PAPERS RELATING TO DIFFERENTIAL RATES OF TONNAGE DUES—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | SWEDEN AND NORWAY—continued. | |
| | | | *Correspondence with the Legation of Sweden and Norway at Washington.* | |
| 25 | Mr. Reuterskiöld to Mr. Bayard. | 1885. June 17 | Claims that the benefit of lower tonnage dues on vessels coming from certain regions to ports of the United States, granted under section 14 of the acts of June 26, 1884, should be extended, under Article VIII of the treaty of July 4, 1827, to vessels coming from ports of Sweden and Norway. | 1887 |
| 26 | Same to same | Oct. 4 | Restates claim made in his note of June 17, whether the reduction is based on geographical situation of the countries favored or on their nationality, makes no difference as regards the claim of Sweden and Norway. | 1888 |
| 27 | Mr. Bayard to Mr. Reuterskiöld. | Nov. 7 | Acknowledges note of June 17, and makes same reply as that made to the Belgian minister in note of November 7. | 1888 |
| 28 | Mr. Reuterskiöld to Mr. Bayard. | Nov. 11 | States that Mr. Bayard's note of November 7 does not answer his of October 4; Sweden and Norway do not make their claim under the "favored nation" clause, but under Article VIII of the treaty of 1827; again submits claim. | 1889 |
| 29 | Same to same | 1886. Mar. 8 | Requests an answer to his notes of June 17 and October 4, 1885. | 1890 |
| 30 | Mr. Bayard to Mr. Reuterskiöld. | Mar. 29 | Acknowledges notes of June 17, October 4, and November 11, 1885; insists that section 14 of the act of June 26, 1884, does not conflict with Article VIII of the treaty of 1827; when Sweden and Norway have acceded to the terms of the act of 1884 they can enjoy the benefits thereof. | 1890 |
| 31 | Mr. Reuterskiöld to Mr. Bayard. | Mar. 31 | Protests against the decision of the United States Government; reserves right to communicate further arguments under the instruction of his Government. | 1891 |
| 32 | Same to same | June 30 | Incloses copy of instruction to him from the Swedish minister of foreign affairs, insisting that, under the "favored nation" clause, and under Article VIII of the treaty of 1827, Swedish, Norwegian, and American vessels sailing from ports of Sweden and Norway to the United States, should be entitled to the 3-15 rate of tonnage duty; argument of the question. | 1892 |
| 33 | Same to same | Nov. 15 | Under instruction of his Government, protests against act of June 19, 1886, as in contravention of treaty of 1827, inasmuch as in certain cases it favors American vessels as compared with Swedish and Norwegian; also protests against it as maintaining the position taken by the United States on the question of tonnage duties, a position which his Government can not accept. | 1894 |
| 34 | Mr. Bayard to Mr. Reuterskiöld. | Dec. 20 | Acknowledges note of June 30 from Mr. de Reuterskiöld; Count Ehrensvärd has confused "navigation" and "commerce"; Sweden and Norway can only claim privilege under Article VIII for their own vessels; it could not be allowed under the law to American vessels, and the Swedish construction of Article VIII would favor Swedish and Norwegian vessels at the expense of American; declines to admit this claim. | 1895 |
| 35 | Same to same | Dec. 20 | Acknowledges Mr. Reuterskiöld's note of November 15; states that he has not shown wherein the acts of June 26, 1884, and June 19, 1886, favor United States vessels more than Swedish and Norwegian; admits that the act of 1886 does not grant the 3-15 rate of tonnage duty to Swedish and Norwegian vessels coming from ports of Sweden and Norway, but neither does it grant it to American vessels coming from those ports; insists that it is based on the correct principle. | 1896 |

## SUPPLEMENT E—Continued.

### PAPERS RELATING TO DIFFERENTIAL RATES OF TONNAGE DUES—Continued.

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | SWEDEN AND NORWAY—continued. | |
| | | | *Correspondence with the Legation of Sweden and Norway at Washington*—Continued. | |
| 36 | Mr. Reuterskiöld to Mr. Bayard. | 1887. Mar. 9 | Incloses copies of correspondence between the United States and Sweden and Norway in 1828 in which the former demanded the lowest rate of tonnage duty charged in the ports of Norway, where a discrimination was made on a geographical basis; the demand was conceded by Sweden and Norway, and the construction of Article VIII of the treaty of 1827 was admitted to be what the Swedish Government has maintained throughout the present correspondence; he presumes the Government of the United States will abide by that construction and admit the justness of the claim of Sweden and Norway. | 1906 |
| 37 | Mr. Bayard to Mr. Fairchild. | June 2 | Incloses copies of the correspondence passed between the Department and the Swedish legation; asks whether the Treasury can grant the 3-15 rate to Swedish and Norwegian vessels sailing from ports of Sweden and Norway. | 1905 |
| 38 | Mr. Fairchild to Mr. Bayard. | June 20 | Acknowledges Mr. Bayard's letter of June 2; has referred matter to Commissioner of Navigation, whose decision is final; incloses report from latter stating that under the law the 3-15 rate can not be granted in the case in question. | 1905 |
| 39 | Mr. Woxen to Mr. Bayard .. | 1888. Nov. 10 | States that the discriminating tonnage duty levied in Norway in favor of vessels trading with ports in the White Sea and Arctic Ocean has been abolished; asks that Congress shall remedy the conflict between Article VIII of the treaty of 1827 and the act of June 26, 1884. | 1907 |
| 40 | Mr. Bayard to Mr. Woxen .. | Dec. 6 | States that the matter will be communicated by the President to Congress. | 1908 |

## PART II.

### CORRESPONDENCE RELATIVE TO THE ABOLITION OF TONNAGE DUES.

| | | | | |
|---|---|---|---|---|
| 41 | Mr. Bayard to United States ministers (circular). | 1887. July 9 | Extract from an act of Congress "to abolish certain fees for official services to American vessels," etc.; the —— Government to be invited to co-operate; the act broad enough to effect a reduction or abolition of tonnage dues; a country in which charges are less than in the United States may obtain a reduction, *e. g.*, the Netherlands; the invitation extended to all countries; report to be made as to whether there is any discrimination against United States vessels in the ports of ——; proclamation of the President removing duties on vessels from ports of the Netherlands, and acts of Congress, public No. 67, of June 26, 1884, and No. 85, of June 19, 1886, inclosed. | 1908 |
| | | | AUSTRIA. | |
| 42 | Mr. Roosevelt to Mr. Bayard (No. 51). | 1888. Apr. 7 | Austria declines to co-operate in the abolition of tonnage dues, owing to the reduction in her port dues which would result from the necessary extension of the same treatment to all "most favored" nations; translation of Mr. Szöchyeny's note inclosed. | 1919 |
| | | | BELGIUM. | |
| 43 | Mr. Tree to Mr. Bayard (No. 251). | 1887. Aug. 18 | Department's circular of July 9, 1887, communicated to the Prince de Chimay in a note, of which copy is inclosed; will ascertain and report in regard to discrimination. | 1920 |

## SUPPLEMENT E--Continued.

### CORRESPONDENCE RELATIVE TO THE ABOLITION OF TONNAGE DUES—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | BRAZIL. | |
| 44 | Mr. Jarvis to Mr. Bayard (No. 139). | 1888. Aug. 6 | Brazil declines to co-operate with the United States (1st) because she has no merchant-marine; (2nd) because her light-house tax corresponds to the tonnage tax in the United States, and is not excessive; (3rd) because foreign ships engage in the coastwise trade without extra burdens; many of these vessels carry the United States flag; no discrimination in Brazil against United States vessels; Mr. Da Silva's note inclosed. | 1922 |
| | | | CHINA. | |
| 45 | Mr. Denby to Mr. Bayard (No. 450). | 1887. Sept. 8 | Dispatch communicating Department's circular of July 9, 1887, to the Yamen being translated into Chinese; the subject of discrimination will be examined into. | 1923 |
| 46 | Same to same (No. 453)..... | Sept. 15 | No discrimination in China against vessels from the United States. | 1924 |
| 47 | Same to same (No. 458)..... | Sept. 21 | China declines to co-operate in the abolition of tonnage dues, as she has few ships in the carrying trade. | 1925 |
| | | | DENMARK. | |
| 48 | Mr. Anderson to Mr. Bayard (No. 208). | 1888. Feb. 24 | Department's circular of July 9, 1887, communicated to the Danish minister in a note; copy of note and translation of answer inclosed. | 1925 |
| 49 | Same to same (No. 209)..... | Feb. 25 | Department's circular of July 9, 1887, made the subject of two notes; the reply received from the Danish minister in answer to the first in regard to discrimination in tonnage dues; none yet received in regard to their proposed abolition; efforts to effect their abolition reported as being made; Count Sponneck instructed as to the position of the Danish Government. | 1927 |
| | | | FRANCE. | |
| 50 | Mr. Vignaud to Mr. Bayard (No. 471). | 1887. Aug. 29 | Mr. Flourens has submitted the propositions in Department's circular of July 9, 1887, to his colleagues, and will communicate their opinion; he desires three more copies of the circular. | 1927 |
| | | | GERMANY. | |
| 51 | Mr. Coleman to Mr. Bayard (No. 496). | 1887. Aug. 25 | Department's circular of July 9, 1887, communicated to the German minister; United States Consul-General von Versen reports that there is no discrimination in Germany against United States vessels; note to Count Berchem inclosed. | 1927 |
| | | | *Correspondence with the legation of Germany at Washington.* | |
| 52 | Mr. von Alvensleben to Mr. Bayard. | 1888. Jan. 24 | No tonnage or equivalent tax levied on United States vessels, and no discrimination against them in German ports; the issuance of a proclamation by the President suspending the collection of tonnage taxes on vessels from German ports requested; rights and privileges heretofore claimed with regard to the treatment of German vessels in United States ports reserved; return of taxes collected on German shipping since June 19, 1886, requested. | 1929 |
| 53 | Mr. Bayard to Mr. von Alvensleben. | Jan. 26 | The President will at once issue a proclamation suspending the collection of tonnage dues on vessels from German ports; the requested return of tonnage dues collected since June 19, 1886, reserved for consideration. | 1930 |
| 54 | Same to same..... | Jan. 30 | Printed copies of the President's proclamation suspending the collection of tonnage dues on vessels from German ports inclosed. | 1930 |
| 55 | Mr. von Alvensleben to Mr. Bayard. | Feb 25 | Duties again collected on the *Saale* at New York on her arrival from Bremen; requests that the authorities be instructed that their action is in contravention of the President's proclamation; papers inclosed. | 1931 |

## SUPPLEMENT E—Continued.

### CORRESPONDENCE RELATIVE TO THE ABOLITION OF TONNAGE DUES—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | GERMANY—continued. | |
| | | | *Correspondence with the legation of Germany at Washington*—Continued. | |
| 56 | Mr. Bayard to Mr. von Alvensleben. | 1888. Feb. 28 | The levying of duties on the North German line brought to the attention of the President, and is being investigated. | 1933 |
| | | | GREAT BRITAIN. | |
| 57 | Mr. Phelps to Mr. Bayard (No. 625). | 1887. Nov. 19 | The Marquis of Salisbury's reply to note communicating Department's circular inclosed. | 1933 |
| | | | ITALY. | |
| 58 | Mr. Dougherty to Mr. Bayard (No. 167). | Oct. 15 | No distinction in Italy made between vessels of Italy or any country and those of the United States in the matter of tonnage charges; note from the Italian minister of foreign affairs inclosed. | 1934 |
| | | | *Correspondence with the legation of Italy at Washington.* | |
| 59 | Mr. Ferrara to Mr. Bayard.. | 1887. July 18 | United States and other vessels pay the same duties as Italian vessels in Italian ports; requests that Italian vessels coming from ports of countries covered by proclamations suspending the collection of tonnage taxes may enjoy those benefits. | 1935 |
| 60 | Mr. Bayard to Mr. Ferrara.. | July 26 | Mr. Ferrara's note not sufficiently negativing all discrimination against United States vessels in Italian ports; an express statement according to the exclusive proviso of the proclamations desired; the Treasury Department will be requested to extend the benefits of the proclamation to Italian vessels, if no discrimination exists. | 1936 |
| 61 | Mr. Ferrara to Mr. Bayard.. | July 27 | No discrimination in the ports of Italy against United States vessels, either as compared with those of Italy or any other country; requests that the Secretary of the Treasury be so informed that Italian vessels may enjoy the benefits of the President's proclamations. | 1936 |
| 62 | Mr. Bayard to Count de Foresta. | Aug. 23 | Italian vessels coming from ports mentioned in the President's proclamation of April 22, 1887, will be admitted under its terms. | 1937 |
| | | | JAPAN. | |
| 63 | Mr. Hubbard to Mr. Bayard (No. 383). | Sept. 24 | Japan can not fully co-operate with the United States in the abolition of tonnage dues; translation of note of Count Inouye Kaoru inclosed. | 1937 |
| 64 | Same to same (No. 417)..... | Dec. 28 | Note from Count Ito on the subject of the abolition of tonnage dues inclosed. | 1938 |
| 65 | Mr. Bayard to Mr. Hubbard (No. 186). | 1888. Feb. 4 | The desire of Japan to abolish tonnage dues and charges on vessels communicated to the Treasury Department; a full report must be made giving the charges on American vessels in Japanese ports before the status of Japanese vessels in the United States can be determined; the letter of the Secretary of the Treasury inclosed. | 1940 |
| 66 | Mr. Hubbard to Mr. Bayard (No. 452). | Mar. 20 | No tonnage or light dues levied on American vessels, but $17 for entrance and $7 for clearance for each vessel in lieu thereof; American vessels on an equality with Japanese; note of the Japanese minister of foreign affairs inclosed. | 1940 |
| 67 | Mr. Bayard to Mr. Hubbard (No. 210). | May 2 | The charges on vessels of the United States in Japan an offset to tonnage and shipping dues in America, and no reason appears for reducing present rates unless the Japanese Government does likewise; the letter of the Secretary of the Treasury, covering a report from the Commissioner of Navigation on the subject, inclosed. | 1942 |

## SUPPLEMENT E—Continued.

### CORRESPONDENCE RELATIVE TO THE ABOLITION OF TONNAGE DUES—Continued.


| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | MEXICO. | |
| 68 | Mr. Manning to Mr. Bayard (No. 205) | 1887. Aug. 31 | Department's circular of July 9, 1887, sent to the Mexican treasury department by Mr. Mariscal for information. | 1943 |
| 69 | Mr Connery to Mr. Bayard (No. 244). | Oct. 10 | Mexico unable to co-operate in the abolition of tonnage dues; translation of Mr. Mariscal's note inclosed. | 1944 |
| | | | THE NETHERLANDS. | |
| 70 | Mr. Bayard to Mr. Bell (No. 81). | Jan. 5 | The advantages extended by the shipping act of June 26, 1884, claimed by European Governments, but not then by the Netherlands, under the most favored nation treaty clause; an offer made by that Government to accept the reciprocal proposals in the act of June 19, 1886; the satisfaction felt at this offer to be unofficially communicated; copies of correspondence with the Swedish minister inclosed for information. | 1945 |
| 71 | Mr. Bell to Mr. Bayard (No. 214). | Jan. 21 | Department's instruction No. 81 unofficially communicated to the minister of the Netherlands, who expressed his desire for an early adoption of the necessary measures. | 1945 |
| 72 | Mr. Bayard to Mr. Bell (No. 82). | Feb. 10 | Mr. Bell's No. 214 read with interest; copy of House bill No. 10703 and of Department's letter of the 14th ultimo to the chairman of the Shipping Committee of the House of Representatives inclosed, as illustrating the views of this Government. | 1946 |
| | | | *Correspondence with the legation of the Netherlands at Washington.* | |
| 73 | Mr. de Weckherlin to Mr. Bayard. | 1886. Nov. 8 | No tonnage, light-house, beacon and buoy, or other equivalent dues collected; no discrimination against United States vessels, and no export duties levied in the Netherlands or the free ports of the Dutch West Indies; requests the suspension of the collection of tonnage dues in the United States on vessels from those ports in accordance with the act of Congress of June 19, 1886; list of free ports in the Dutch East Indies inclosed. | 1947 |
| 74 | Mr. Bayard to Mr. de Weckherlin. | 1887. Apr. 22 | The President's proclamation issued suspending the collection of tonnage dues on vessels from the Netherlands and the free ports of the Dutch East Indies, except on vessels belonging to countries whose dues are greater than those levied in the United States; the Department invites the Government of the Netherlands to extend the abolition of tonnage dues to all the Dutch East India ports; the President's proclamation inclosed. | 1948 |
| 75 | Mr. de Weckherlin to Mr. Bayard. | May 3 | Acknowledges receipt of the President's proclamation; the invitation to the Netherlands to extend the abolition of tonnage dues to all East India ports forwarded. | 1950 |
| 76 | Same to same..... | June 28 | Expresses Mr. Karnebeek's thanks for the President's proclamation suspending the collection of tonnage dues on vessels from the Netherlands and their East India free ports; the extension of the arrangement to all ports will be considered. | 1951 |
| | | | PERU. | |
| 77 | Mr. Buck to Mr. Bayard (No. 282). | Sept. 1. | Copy of note sent, in conformity to Department's circular of July 9, 1887, to Mr. Elias inclosed. | 1951 |
| | | | RUSSIA. | |
| 78 | Mr. Wurts to Mr. Bayard (No. 136). | 1887. Aug. 11 | Department's circular of July 9, 1887, communicated to the Russian Government. | 1952 |

## SUPPLEMENT E—Continued.

**CORRESPONDENCE RELATIVE TO THE ABOLITION OF TONNAGE DUES.—Continued.**

| No. | From and to whom. | Date. | Subject. | Page. |
|---|---|---|---|---|
| | | | RUSSIA—continued. | |
| 79 | Mr. Lothrop to Mr. Bayard (No. 159). | 1888. Feb. 18. | No discrimination in Russian ports against vessels from America, but Russia declines to co-operate with the United States, as proposed in Department's circular of July 9, 1887, since Russian vessels would be placed at a disadvantage, and there is practically no direct intercourse between the countries; copy of Mr. Vlangaly's note inclosed. | 1953 |
| | | | SWEDEN AND NORWAY. | |
| 80 | Mr. Magee to Mr. Bayard (No. 99). | 1887. Oct. 24 | The proposition of the United States looking to the abolition of tonnage and other dues will be considered by the councils of Sweden and Norway; changes in the council of state may delay its consideration. | 1954 |
| | | | *Correspondence with the legation of Sweden and Norway at Washington.* | |
| 81 | Mr. Ibsen to Mr. Bayard... | 1888. May 21 | List of the kinds and amounts of all dues levied in the United States on Swedish vessels requested with a view to the abolition of all such dues. | 1955 |
| 82 | Mr. Adee to Mr. Ibsen..... | June 9 | List of the kinds and amount of dues levied on Swedish vessels; copy of letter of the Secretary of the Treasury covering the report of the Commissioner of Navigation inclosed. | 1955 |

# ITALY

## No. 714.

*Mr. Bayard to Mr. Stallo.*

No. 93.] DEPARTMENT OF STATE,
*Washington, April* 26, 1888.

SIR: You are instructed to request of the Italian Government, in pursuance of existing treaty stipulations between the two countries, the extradition of Salvatore Paladini, under indictment in the United States court for the district of New Jersey on the charge of knowingly passing counterfeit money of the United States, who is now believed to be within the jurisdiction of the Kingdom of Italy.

The President's warrant to receive the fugitive has been issued to Cono Casale of Newark, N. J., one of the court constables.

I am, etc.,

T. F. BAYARD.

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## No. 715.

*Mr. Stallo to Mr. Bayard.*

[Extract.]

No. 223.] LEGATION OF THE UNITED STATES,
*Rome, August* 4, 1888. (Received August 18.)

SIR: I have the honor herewith to transmit copies of the correspondence between this legation and the Italian foreign office in relation to the extradition of Salvatore Paladini, a fugitive from justice, who is under indictment in the United States court for the district of New Jersey on the charge of passing counterfeit money of the United States. This correspondence will become intelligible upon a brief review of the following facts:

I was instructed to demand the extradition of said Paladini by your letter No. 93, of April 26, 1888, which informed me that the President's warrant to receive the fugitive had been issued to one Cono Casale. Casale presented himself at the office of this legation on the 17th day of May, 1888, bringing with him the papers relating to the case, including the warrant for the arrest of Paladini; and I at once, on the same day, dictated the letter to the foreign office which is herein marked inclosure No. 1, inclosing the papers and demanding the extradition of Paladini.

It being obviously important to secure the arrest of the fugitive without delay, I delivered the letter with its inclosures to Mr. Crispi on the afternoon of that day in person, and called his attention to the urgency of the matter, and to the danger that Paladini might be informed of the

presence of Casale in Italy, and of the measures about to be taken for his arrest. Mr. Crispi opened the letter, requested me to translate it for him, which I did, and then observed that the matter would have to be referred to the ministry of grace and justice, but that he would send it there at once, and that measures for the arrest of the fugitive would be taken forthwith. Although the name of Salvatore Paladini must have suggested to him that the fugitive was an Italian, Mr. Crispi asked me no questions as to Paladini's citizenship. Before I left I informed Mr. Crispi that Paladini was supposed to be in Sicily, and that Mr. Cono Casale was at the service of the Italian authorities for the purpose of aiding in his discovery and identification.

Five days elapsed after this interview, and I had no communication from the foreign office in regard to the matter. Casale, meanwhile, was at the office of the legation every day, and became very impatient; so I proceeded to the foreign office, in order to inquire what had been done.

When I arrived there I found that Mr. Crispi was then, and for several days had been, confined to his house with illness; but I was assured by one of his secretaries that the papers had long since been sent to the ministry of grace and justice, and that the ministry of foreign affairs was in momentary expectation of the report.

Nearly another week elapsed; and Crispi having meanwhile been taken to Castelamare by reason of his illness, I requested Mr. Dougherty, the secretary of legation, to inquire at the foreign office as to the state of the matter. The information given him by one of the under secretaries was that Mr. Casale had been there in person the day before; that they were fully aware of the urgency of the matter; and that I would hear from them very soon. Accordingly, on the second or third day thereafter, to wit, on the 2d day of June, 1888, I received a letter (marked inclosure 2), in which I was informed that my application for the extradition of Paladini had been communicated to the ministry of grace and justice "without the least delay," but that it was important to know of what country Paladini was a native, what was his paternity, and what was his citizenship.

It will be observed that this inquiry was addressed to me for the first time when nearly two weeks had elapsed since the date of my application. I answered this note immediately (inclosure No. 3), informing the ministry that Paladini was a Sicilian and an Italian subject, a native of Messina, in Sicily, and was then supposed to be at that place, adding, again, that Mr. Cono Casale, the agent appointed by the United States Government, knew him personally, and, as I had informed Mr. Crispi, was at the disposition of the Italian authorities for the purpose of identifying and arresting the fugitive.

To this note no reply was made for more than three weeks, during all of which time Mr. Crispi was prevented, first by illness and then by his occupation in the Chamber of Deputies, from receiving the foreign ministers. In the interval Casale had become so impatient that he had proceeded first to Naples, and then to Messina, in order to be near or on the spot whenever the attempt should be made to effect Paladini's arrest. On the 25th of June I addressed a note (inclosure 4) to the Italian foreign office, to which I received the reply marked inclosure 5 on the 2d of July, 1888. Seven days thereafter, on the 9th of July, the foreign office sent me a further note (inclosure 6) dated July 7, 1888, in which I was informed that the royal prefecture in Messina, by order of the ministry of the interior, had attempted to trace up and secure Paladini at Messina without success, and that the fugitive was believed to have

returned to New York. This note of the foreign office contained the remark that the Italian ministry of the interior "does not find itself in a position to avail itself of the services of the agent Casale, sent to Italy by the Government of the United States." This remark, together with the circumstance that the Italian authorities had allowed nearly seven weeks to elapse before they acted in compliance with my demand and their duty, accounts for the tone of the note which I addressed to the Italian foreign office on July 14, 1888 (marked inclosure 7). Up to this moment no question had been raised as to the duty of the Italian Government to extradite Italian subjects, as well as subjects or citizens of other states, upon the demand of our Government; but in reviewing the correspondence with the foreign office, and speculating on the probable causes of the otherwise inexplicable tardiness of the Italian authorities, I began to suspect that the Italian Government would eventually refuse to surrender Paladini on the ground that he was an Italian subject. This suspicion led me to write the concluding passage in my note of July 14, 1888 (inclosure 7), and it was soon confirmed at my interview with Mr. Crispi on July 26, 1888, the first I had been able to secure since May 17. At this interview the Italian minister of foreign affairs took the ground that the extradition treaty between the United States and Italy did not require the surrender of Italian subjects, and that there was an express reservation in said treaty to the effect that its terms should not apply to the citizens or subjects of the asylum state. I informed him that I was quite fresh from the reading of the treaty of March 23, 1868, and that he was mistaken. Mr. Crispi, however, persisted in his assertion, and I left him with the observation that the further discussion of this subject had better be in writing. Mr. Crispi assented, and accordingly, on the 27th of July, I sent him the memorandum marked inclosure 8.

The reply to this memorandum (inclosure 9), though dated the 27th of July, was not sent to me until the 1st of August, the date at the head of the letter being probably a mistake.

In this reply it was said that the papers in the extradition case, which I had delivered to the ministry of foreign affairs on the 17th of May, were inclosed and returned to me.

Although by some inadvertence the papers were in fact not inclosed (as I informed the foreign office in the note as per inclosure 10), I inferred from the announcement of their return by the minister of foreign affairs that he had definitively abandoned all intention of continuing the pursuit of Paladini with a view of his surrender, and so informed Mr. Casale, who, in a letter received the day before, had announced his intention of returning to the United States on the steamer *Olympia*, which was to sail from Naples on the 1st or 2d instant. But suddenly, to my surprise, I was notified by a dispatch from Messina that Paladini had been arrested. I at once notified Casale not to leave for the United States, but to go to Messina, and I then proceeded to the foreign office to inform Mr. Crispi of the event by which the concluding sentences of his note of July 27 (exhibit 9) had lost their force. Mr. Crispi, after some reflection, said that in his judgment it was not necessary, after all, to determine at this moment whether it was or was not the duty of the Italian Government to surrender one of its own subjects upon the demand of the United States, inasmuch as that question, among others, would be decided by the court at Messina before which Paladini would have to be brought, in any event, before he was extradited or finally tried. He observed that his interpretation, as he called it, of the treaty of March 23, 1868, had been based upon the circumstance that the law of Italy prohibited the extradition of Italian

subjects to foreign jurisdictions, crimes committed by said subjects within such jurisdictions being justiceable by the Italian courts as much as if the crimes had been committed in Italy. I answered that I supposed that in Italy, as well as elsewhere, treaty obligations were a part of the law of the land; so that at last we were brought back to the question: What was the duty of Italy under the treaty with the United States? and that the United States, while conceding the right of the Italian tribunals to determine whether a demand for extradition had been made upon proper grounds and in proper form, could not admit their right to narrow the terms of the treaty itself. Mr. Crispi, thereupon, said that in any view of the case it would be time enough to continue the discussion of the matter in dispute between us after the decision by the court at Messina, and promised to do everything in his power to expedite the proceedings.

After this interview I received a formal notice (inclosure 11), through a note sent by Mr. Damiani, under secretary of state, of Paladini's arrest.

My dispatch to Casale fortunately reached him before his departure, and he informed me by telegraph of his intention to go to Messina without delay.

It is, of course, impossible to predict what course will be taken by the Messina tribunals. Meanwhile I deem it important to call your attention to Article VI of the treaty of March 23, 1868, which provides that "the expenses of the arrest, detention, and transportation of the persons claimed shall be paid by the Government in whose name the requisition shall have been made." Casale is, or claims to be, without means, so that several weeks ago I advanced to him at his request 125 francs, which he promised to return in a few days, but which he now says he can not return until after his arrival in the United States.

From a perusal of the papers sent me I infer that the President's order of arrest and the demand for Paladini's extradition were issued and made at the instance and in the interest of Paladini's sureties, one of whom was Casale's father. In view of Article VI, above referred to, it is important that the agent of the Government be provided with the necessary funds not only to pay the expenses of the arrest, detention, and transportation of Paladini, but also, in certain contingencies, to employ counsel to appear in behalf of our Government before the Messina courts.

I have, etc.,

JOHN B. STALLO.

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[Inclosure 1 in No. 223.]

*Mr. Stallo to Mr. Crispi.*

LEGATION OF THE UNITED STATES,
*Rome, May* 17, 1888.

YOUR EXCELLENCY: On the 30th of March, 1888, the grand inquest of the United States of America within and for the district of New Jersey, in the third circuit, found an indictment against one Salvatore Paladini, charging him with feloniously passing, uttering, publishing, and selling a false, forged, and counterfeited coin in the resemblance and similitude of a silver dollar coined at the mint of the United States, on the 1st day of September, 1887, at Newark, in the said district of New Jersey, he, the said Salvatore Paladini, at the time knowing said coin to be so forged and counterfeited contrary to the act of Congress in such case made and provided, and against the peace of the said United States, the Government and dignity of the same.

Said warrant having been reported to the district court of the United States of America within and for the district of New Jersey, in the third circuit, of the term of January, 1888, a warrant was thereupon issued by said court, in the name of the President of the United States, to the marshal of said district of New Jersey, com-

manding said marshal to apprehend the said Salvatore Paladini, and bring him before said court at the United States court-house in the city of Trenton, to answer the indictment aforesaid; which warrant was thereupon, on the 30th of March, 1888, returned by said marshal, who reported that said defendant, Salvatore Paladini, was not found in his district.

It now appears that said Salvatore Paladini, so indicted and ordered to be arrested as aforesaid, is a fugitive from the justice of the United States in the Kingdom of Italy.

In consideration and by reason of the premises, the President of the United States of America has appointed Cono Casale, a citizen of the United States, as the agent of the Government of the United States, authorizing and empowering him, in compliance with existing treaty stipulations between the United States of America and the Kingdom of Italy, to receive the said Salvatore Paladini and bring him back to the United States for trial.

I take the liberty, therefore, herewith to transmit to your excellency the papers evidencing the facts above stated, with the request to cause the necessary warrant to be issued for the arrest of the said Salvatore Paladini, and for his delivery into the custody of the said Cono Casale; and also, after the issuance of said warrant, to return to him, through me, the papers herewith transmitted.

I avail, etc.,

J. B. STALLO.

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[Inclosure 2 in No. 223.—Translation.]

*Mr. Damiani to Mr. Stallo.*

MINISTRY OF FOREIGN AFFAIRS,
*Rome, June* 1, 1888.

MR. MINISTER: I communicated without the least delay to my colleague the minister of grace and justice the application for the extradition, conveyed in your note of the 17th of May last, of Salvatore Paladini, charged with having counterfeited and placed in circulation dollars of the United States of America.

His excellency the minister of grace and justice has now replied to me that in the documents accompanying your esteemed note it was not indicated of what country the aforesaid Salvatore Paladini is a native, neither his paternity, and not even his citizenship.

This information is most necessary to ascertain the identity of the person, especially as the family and baptismal names of Salvatore Paladini are very common in Italy.

The minister of grace and justice also remarks to me that from an examination of the documents communicated by your legation it appears that a certain Vincenzo Casale has deposed that "Paladini is a freeholder of three pieces of land in Peshine, city of Newark, and that the same owns a house there." Such deposition would make one suppose that Salvatore Paladini, becoming a property holder in the United States of America, had obtained American citizenship.

Therefore, at the request of the minister of grace and justice, I beg you to furnish me with the the information above indicated, with which it will be easy to establish the identity and the citizenship of Paladini and to search for him in the Kingdom.

Be pleased, etc.,

A. DAMIANI.

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[Inclosure 3 in No. 223.]

*Mr. Stallo to Mr. Crispi.*

LEGATION OF THE UNITED STATES,
*Rome, June* 2, 1888.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of the communication addressed to me by the ministry of foreign affairs on the 1st instant in regard to the extradition of Salvatore Paladini, and in answer thereto I have the honor to state that the said Salvatore Paladini is a native of Messina, in Sicily and has never been naturalized as a citizen of the United States, having been in the United States only a few months before committing the crime imputed to him.

The supposition of his excellency the minister of grace and justice that the said Paladini is a property-holder in Peshine, city of Newark, probably rests upon a misapprehension. Upon examination of the papers it will be found, I think, that Vin-

cenzo Casale declared, not that Paladini was a property holder, but that he, Vincenzo Casale, who offered himself as surety for Paladini, was a property-holder in Peshine, city of Newark. I may add that the said Salvatore Paladini is believed to be in Messina, Sicily, at this moment, and that Mr. Cono Casale, the agent appointed by the United States to bring the said Paladini back within the jurisdiction of the district court of New Jersey, knows him personally very well and is in possession of two photographs of him. Mr. Casale will, of course, place himself at the disposition of the officers of the Government of His Majesty the King of Italy in assisting to identify and arrest him. The names of the parents of Salvatore Paladini are unknown to me.

I avail, etc.,

J. B. STALLO.

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[Inclosure 4 in dispatch No. 223.]

*Mr. Stallo to Mr. Crispi.*

LEGATION OF THE UNITED STATES,
*Rome, June* 25, 1888.

YOUR EXCELLENCY: On the 17th day of May, 1888, I had the honor to address to your excellency a note transmitting the papers relating to the indictment by the grand inquest of the United States of America within and for the district of New Jersey, in the third circuit, of one Salvatore Paladini, on the charge of feloniously passing, uttering, publishing, and selling counterfeit coin in the similitude of silver dollars of the United States of America, said crime being the one mentioned in paragraph 6 of Article II of the convention now in force between the United States and the King of Italy for the surrender of criminals.

In pursuance of this convention, I had the honor to request the issuance, by the proper authorities of the Kingdom of Italy, of the necessary warrant for the arrest of the said Salvatore Paladini and of his eventual delivery to Cono Casale, a citizen of the United States, appointed by the President as the agent of the Government of the United States, to receive the said Salvatore Paladini and bring him back to the United States for trial.

In answer to this note I received on the 2d of June, 1888, a communication from the ministry of foreign affairs of the Kingdom of Italy, requesting certain information relating to the identity of said Salvatore Paladini, which information I had the honor to furnish in another note addressed to your excellency on the same day. Since that time I have received no advice as to whether the warrant prayed for in my note of May 17 has been issued or whether any steps have been taken for the arrest of the said Salvatore Paladini. I take the liberty, therefore, to state to your excellency that according to my latest information the said Salvatore Paladini, in the early part of last week, was still at Messina, Sicily, and that Mr. Cono Casale, the agent of my Government, is also at this moment at Messina, where he may be found at the office of the consul of the United States of America, and where he is entirely at the service of the Italian authorities for the purpose of identifying the person sought to be arrested.

I avail, etc.,

J. B. STALLO.

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[Inclosure 5 in No. 223.—Translation.]

*Mr. Damiani to Mr. Stallo.*

MINISTRY OF FOREIGN AFFAIRS,
*Rome, July* 2, 1888.

MR. MINISTER: I hastened to communicate to my colleague, the minister of grace and justice, the information furnished me in your note dated June 25 last.

My said colleague communicated the notice to the royal ministry of the interior, which has certainly already taken the necessary steps to establish the identity of the person named Salvatore Paladini, charged with having counterfeited silver dollars of the United States of America.

The ministry of the interior has also been advised of the fact that Mr. Cono Casale, special agent of the Federal Government, holds himself at the disposition of the authorities of public safety of Messina to aid, if needed, in identifying the individual sought for, who is at the present time in that province.

Holding myself ready to communicate, in continuation, whatever other information may reach me in the matter,

I renew, etc.,

DAMIANI,
*Under Secretary of State.*

[Inclosure 6 in No. 223.—Translation.]

*Mr. Damiani to Mr. Stallo.*

MINISTRY OF FOREIGN AFFAIRS,
*Rome, July* 7, 1888.

MR. MINISTER: In continuation of my note of the 2d instant I hasten to communicate to you the following information sent me by the ministry of the interior regarding the search for and capture of Salvatore Paladini, from Messina:

"The royal prefecture in Messina, to which was intrusted the charge of making, in all urgency, the tracing up of the person named Salvatore Paladini has made known that the latter returned from America in October of last year and was employed as a clerk in the office of the usher Pugliese, of Messina.

"The said royal prefecture believes, however, that Paladini has really returned to New York, where he has a mother and sister. In any case the efforts for his apprehension will continue to be made.

"In the actual state of affairs the ministry of the interior does not find itself in a position to avail itself of the services of the agent Casale, sent to Italy by the Government of the United States of America."

I hasten to communicate to you the foregoing, in order that you may be able to give notice of it to the Federal Government, which will certainly make search for Paladini in New York, or will furnish us with further information as to the place where the above-named implicated has taken refuge.

Accept, etc.,

DAMIANI,
*Under Secretary of State.*

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[Inclosure 7 in No. 223.]

*Mr. Stallo to Mr. Crispi.*

LEGATION OF THE UNITED STATES,
*Rome, July* 14, 1888.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of the communication addressed to me by his excellency the under secretary of state on the 7th instant, informing me of the measures taken by the Italian Government in compliance with my letter of May 17, 1888, relating to the extradition of Salvatore Paladini, and my two subsequent letters of June 2 and June 25.

In accordance with the suggestions of his excellency the under secretary of state contained in his letter of the 7th instant, just referred to, I shall at once report its contents, together with the correspondence preceding it, to my Government, and to this end I take the liberty to request your excellency, if it be not inconsistent with the rules and traditions observed by the Italian Government in similar cases, to return to me the papers accompanying my letter of May 17, or at least that part of them which authorizes Mr. Cono Casale to receive Salvatore Paladini in case of his arrest and extradition.

Meanwhile I thank your excellency for the measures taken by His Majesty's Government in the attempt to secure the arrest and extradition of the person incriminated, at the same time regretting that the Italian authorities have not deemed it expedient to avail themselves of the services of Mr. Cono Casale in the discovery and identification of the said Salvatore Paladini during his sojourn in Messina, which, according to a report just made to me by the said Casale, extended at least to the 20th of June.

It may not be improper to observe that in my original letter of May 17, 1888, and the documents accompanying it, there was no reference to the question whether or not Salvatore Paladini was an Italian or American citizen, or whether or not he was a property-holder in the United States, for the sole and simple reason that I was and am still unaware that in the treaty of March 23, 1868, there was any distinction between fugitives from justice who were citizens of the United States and those who were not, or between such fugitives as did and those who did not hold property in the United States.

I avail, etc.,

J. B. STALLO.

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[Inclosure 8 in No. 223.]

*Mr. Stallo to Mr. Crispi.*

LEGATION OF THE UNITED STATES,
*Rome, July* 27, 1888.

YOUR EXCELLENCY: The questions relating to the extradition of Salvatore Paladini (an Italian subject charged with the crime of counterfeiting in the United States), which were the subject of discussion during my interview with your excellency on

yesterday at the *consulta*, appear to me to be so important that I beg leave to submit the following memorandum:

The position taken by your excellency, as I understood it, was that the Italian Government could not extradite Paladini because he was an Italian subject, though the crime with which he stands charged was committed in the United States. And your excellency was under the impression that the treaty between Italy and the United States relating to the extradition of criminals (treaty of March 23, 1868) contained a provision to the effect that its terms should not apply to citizens or subjects of the state upon which the demand of extradition is made. As I had the honor to observe yesterday, my recollection differed from that of your excellency, it being my strong belief that the treaty referred to contained no exception in favor of the citizens or subjects of either state.

I have now again carefully examined the treaty of extradition concluded between Italy and the United States on March 23, 1868, and am able to state with entire confidence that its stipulations require a surrender of all persons convicted of or charged with crime in the demanding state, irrespective of the question of their citizenship or allegiance to the asylum state.

As I understand it, your excellency agrees with me that international rights and duties concerning the extradition of fugitives from justice are now purely the results of treaty convention. I am aware that in former times it was the policy of many European states (among which were Great Britain and France) never to deliver up their subjects to a foreign state, but to assume jurisdiction to try them for crime wherever committed. But this policy is no longer universal, and in Great Britain and France at least (as well as in Switzerland and many other states) it has been definitively abandoned. On the 9th day of August, 1842, a treaty was concluded between Great Britain and the United States providing for the "giving up" (*i. e.*, extradition) "of criminals fugitive from justice in certain cases," in which there was no exception as to citizens or subjects of the state in which the criminal had sought refuge; and ever since that time Great Britain has always surrendered fugitives from justice upon the demand of the Government of the United States without inquiring whether or not the fugitive was a British subject; and later, in 1877, a commission appointed by the British Government on extradition reported as follows:

"On the whole the commission *unanimously* were of opinion that it is inexpedient that the state should make any distinction in this respect between its own subjects and foreigners; *and stipulations to the contrary should be omitted from all treaties.*". (*Cf. Wharton, Conflict of Laws*, § 841, *note.*)

Similar observations apply to the treaty of extradition concluded between France and the United States on November 9, 1843, *whose terms are almost identical with those of the treaty with Italy.*

So far as I am aware the French Government has never refused to extradite fugitives from justice on the ground that they were French citizens or subjects. And it is my strong impression that up to this time the Government of His Majesty the King of Italy has never taken the ground which is now taken in the case of Paladini. Moreover, I think that your excellency will find, upon proper inquiry, that the Italian Government has repeatedly demanded the extradition, at the hands of my Government, of American citizens charged with crime committed in Italy.

But the case is still stronger. *I venture to say that since the middle of the present century no state has asserted the right to refuse the extradition of its own subjects charged with the commission of crime abroad unless the treaty under which the extradition was demanded contained a clause justifying such refusal.* Accordingly in all treaties between the United States and European states which deemed it proper to reserve the right to try their own subjects on charges of crime committed abroad there is a distinct article making the reservation. Thus, in the treaty between Austria and the United States, concluded July 3, 1856 (*twelve years before the conclusion of the treaty with Italy*), the second article provides:

"Neither of the contracting parties shall be bound to deliver up its own citizens or subjects under the stipulations of this convention."

Precisely the same express reservation is made in Article IV of the treaty with Belgium (March 19, 1874), in Article IV of the treaty with Sweden and Norway (March 21, 1860), and in Article III of the old treaty with Prussia (June 16, 1852), and in Article VI of the treaty with Mexico (December 11, 1861). *But no such reservation is contained in the treaty with Italy;* and I should very much regret if the case of Salvatore Paladini (who by this time has probably made his escape *pede claudo* both from the jurisdiction of Italy and that of the United States) should establish a precedent which would constrain the Government of the United States to revise all its traditional rules for the interpretation of international treaties.

I avail, etc.,

J. B. STALLO.

[Inclosure 9 in No. 223.—Translation.]

*Mr. Crispi to Mr. Stallo.*

MINISTRY OF FOREIGN AFFAIRS,
*Rome, July* 27, 1888.

MR. MINISTER: As soon as your esteemed note of the 14th of this month, relative to the arrest and extradition of Salvatore Paladini, was received, I hastened to ask the ministry of grace and justice to inform me clearly upon the three observations made by you

As to the first, viz, if it be comformable to the rules and customs practiced in Italy in similar cases to return in all or part the documents communicated in support of a request for extradition, that ministry has remarked that, conformably to what is practiced with all other Governments, it believed it well to retain those acts necessary in case the arrest should be made. However, you requesting them, I have the honor to return them herewith.

As to the second observation, to the effect that the Government of the King had not esteemed it useful to avail itself of the aid of Mr. Cono Casale for the discovery and identification of the person sought for, the ministry of the interior, which, according to the existing rules upon the extradition of criminals, relating to the search and capture of Paladini, communicates to me that the said individual not having been found, it could not have recourse to the work of Mr. Casale to identify and recognize him.

Finally, as to the third remark, viz, as to whether one's own citizens be or not exempt from the liability to being surrendered according to the convention cited, the ministry of grace and justice remarks that in the present state of things it can not be further treated (*non si possa piú trattara*), for this reason: According to the rules which govern extradition among us, it is necessary to hear case by case—

(1) The opinion of the crimes section of the court of appeals in whose district takes place the arrest of the malefactor asked for. (Articles 853 and 854 of the code of penal procedure.)

(2) That of the council of state (article 8, No. 2, of the law of March 20, 1865; of No. 2248, Annex D) on the demand of extradition; that is, whether or not it is conformable to the compacts of the convention.

Now, Paladini not being under arrest, a decision simply theoretical can not be invoked.

If, then, you desire that the first article of the convention cited for future extraditable crimes be interpreted in accord between the two Governments, my colleague informs me that in case of being formally asked he will not fail to set forth the views of the Royal Government.

For the rest, if the ministry pursues the matter, it is simply by way of argument, in response to the argument contained in your note. Considering that the active researches made in order to trace up Salvatore Paladini have remained fruitless, it seems proper to conclude that that individual is not at present in Italy.

Be pleased, etc.,

F. CRISPI.

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[Inclosure 10 in No. 223.]

*Mr. Stallo to Mr. Crispi.*

LEGATION OF THE UNITED STATES,
*Rome, August* 1, 1888.

YOUR EXCELLENCY: I have the honor to acknowledge receipt of your excellency's communication of the 27th instant (which has reached me this moment), in which your excellency announces the return of the papers in the case relating to the extradition of Salvatore Paladini. But by some inadvertence the papers are not actually returned to me, and I take the liberty therefore to repeat my request that they be sent to me.

As to the further contents of your excellency's note, I must content myself for the present with saying that I shall at once communicate them to my Government and report to your excellency its reply as soon as it is received.

I seize, etc.,

J. B. STALLO

[Inclosure 11 in No. 223.—Translation]

*Mr. Damiani to Mr. Stallo.*

MINISTRY OF FOREIGN AFFAIRS,
*Rome, August* 2, 1888.

MR. MINISTER: The documents concerning Salvatore Paladini, which should have been inclosed in the note of July 27 last, were, by an inadvertence, forgotten. But while I was about to send them to you, I have been obliged to return them to the ministry of grace and justice, inasmuch as, by a telegram dated yesterday informing me that Paladini has been arrested, they have been again requested of me.

Be pleased, etc.,

DAMIANI,
*Under Secretary of State.*

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No. 716.

*Mr. Bayard to Mr. Stallo.*

No. 111.] DEPARTMENT OF STATE,
*Washington, August* 20, 1888.

SIR: Your dispatch No. 223, of the 4th instant, transmitting your correspondence with the Italian foreign office, in relation to the demand for the extradition of Salvatore Paladini, on the charge of passing counterfeit money of the United States, has been received without signature.

Should the question touching the non-surrender of an Italian subject to the jurisdiction of the United States, and any claim of Italy to prosecute such subject on account of a crime committed against the United States and within their jurisdiction, arise by reason of a decision of the Italian magistrate before whom the proceedings in extradition are to be conducted upon the reported arrest of Paladini, their importance would then demand immediate consideration in the light of the facts disclosed.

With reference to your statement that Cono Casale, the agent empowered by the President to bring Paladini back to the jurisdiction of the United States, in the event of his surrender, "is or claims to be without means," I have to inform you that the consul of the United States at Messina was instructed by cable, on the 14th instant, in reply to a telegraphic inquiry, that he should draw upon the Secretary of State for $200 on account of his necessary expenses in the premises.

I am, etc.,

T. F. BAYARD.

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No. 717.

*Mr. Stallo to Mr. Bayard.*

No. 230.] LEGATION OF THE UNITED STATES,
*Rome, August* 21, 1888. (Received September 5.)

SIR: A telegraphic dispatch from Mr. Jones, our consul at Messina, which I have just received, informs me that the procurator-general of the court of appeals, in Messina, has moved the court to discharge Salvatore Paladini, and not to permit him to be extradited, on the

ground that he is an Italian subject. I have requested Mr. Dougherty to communicate to the Department whatever official notice of this result may be given to the legation after my departure.

In this connection I take the liberty of requesting the Department to send me the latest edition of the "Treaties and Conventions concluded between the United States of America and other powers." The copy I find in the legation library is very imperfect and consists, in part, of loose sheets.

I have, etc.,

J. B. STALLO.

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No. 718.

*Mr. Bayard to Mr. Dougherty.*

No. 115.] DEPARTMENT OF STATE,
*Washington, September* 10, 1888.

SIR: I have received Mr. Stallo's No. 230, of the 21st ultimo, reporting that the procurator-general of the court of appeals, in Messina, has moved that tribunal to discharge Salvatore Paladini, whose extradition has been requested by this Government under the treaties between the United States and Italy, on the ground that, being an Italian subject, he can not be extradited.

The only guide the Department possesses in the matter is the language of the treaties, which contain no such limitation as that suggested.

In reply to the legation's request for a late edition of the treaties between the United States and foreign powers, I have to say that it is hoped a new edition, now in press, will soon be issued, when the request will be complied with.

I am, etc.,

T. F. BAYARD.

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No. 719.

*Mr. Bayard to Mr. Dougherty.*

No. 116.] DEPARTMENT OF STATE,
*Washington, September* 28, 1888.

SIR: I inclose herewith a copy of a dispatch dated the 29th ultimo from our consulate-general at Rome, informing the Department that by a ministerial decree of the 16th ultimo, the introduction of swine products of Austro-Hungary into Italy will hereafter be allowed in exception to the general prohibitory decree of the 6th of May, 1879, on the ground that Austrian pork had been ascertained to be free from infection.

You will find in your archives an instruction to Mr. Marsh, dated June 10, 1881, directing him to transmit a copy of the official report of this Department on the subject of American pork to the Italian Government, urging at the same time on it the propriety of abolishing, or, at any rate, of modifying the prohibitive decree against American pork of the 20th of February, 1879. It does not appear from subsequent correspondence how far these instructions were executed or what effect, if any, followed.

I therefore now send you another copy of the document referred to, with the request that you will promptly investigate the state of the case as reported by the consul-general, and, in connection therewith, again call the attention of the Italian Government to the arguments of this Government in support of the healthiness of American pork, and also to the fact that under our commercial treaties with Italy the United States is entitled to the same treatment as the most favored nations as regards the importation of her products.

This Government believes that the arguments which were advanced in 1881 hold equally good now, and that American pork, if a fair examination be made of it, will more than hold its own in comparison with that of Austria or other foreign nations, the existence of trichinosis in Europe being due, it is believed, in all cases which have been officially investigated, to the prevalent custom of eating pork in a perfectly uncooked state.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 116.]

*Mr. Wood to Mr. Rives.*

No. 249.] CONSULATE-GENERAL OF THE UNITED STATES,
*Rome, August* 29, 1888. (Received September 17.)

SIR: As is known to the Department of State, pork and pork preparations in any form whatsoever, and without distinction of country of origin, have been prohibited articles of import into Italy for more than nine years past.

In truth, United States pork and pork preparations were interdicted on February 20, 1879; and on May 6 of the same year the interdiction was extended to all countries. So that since the latter date there have been no further imports of these articles into this country.

I now have the honor to inform you that on the 16th instant the Italian minister of the interior issued a decree ordering that on and after that date pork and pork preparations coming from Austria-Hungary should be allowed to enter the Kingdom.

Two copies of this decree, with translation, are inclosed herein.

The ministerial decree states that the interdiction on pork and pork preparations from Austria-Hungary has been raised, as it has been found that the swine of that Empire are free from trichina.

Could the Italian Government be satisfied that there is no danger from trichina in American pork, it is possible that this country, which prior to 1879 was a considerable market for our product, would again be opened to our trade.

In communicating the above information, I believe it may be interesting for our Government to know that in Italy a large proportion of the smoked hams and shoulders and sausages are eaten uncooked. By the well-to-do classes they are eaten as relishes; for the poor they constitute real articles of food; but in both cases they are chiefly consumed raw.

I am, etc.,

CHARLES M. WOOD,
*Vice Consul-General in Charge.*

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[Inclosure 2 in No. 116.—Translation.]

1888.—*Marine Health Order No.* 10.

The minister of the interior by virtue of the law of March 20, 1865, Supplement C, on public health, having ascertained that throughout the Empire of Austria-Hungary swine (*il bestiame porcino*) are perfectly free from trichina; decrees:

That, from now on, it shall be permitted to introduce into the Kingdom the flesh of swine salted, smoked, or otherwise prepared (*le carni suine salati affumicati od altri menti preparate*) coming from the aforesaid Empire of Austria-Hungary.

The prefects, captains of ports and port officers, and the customs authorities of the Kingdom are charged with the execution of this order.

CRISPI,
*Minister.*

ROME, *August* 16, 1888.

## CORRESPONDENCE WITH THE LEGATION OF ITALY AT WASHINGTON.

### No. 720.

*Baron de Fava to Mr. Bayard.*

[Translation.]

LEGATION OF ITALY,
*Washington, February* 14, 1888. (Received February 16.)

Mr. SECRETARY OF STATE: The Government of the King, being about to take part in the conference which is soon to be held at Madrid for the regulation of affairs in Morocco, has a particular interest in learning the views of the Cabinet of Washington on the subject of the exercise of the right of protection as it is assured at the present time by the existing treaties. It would be agreeable to it to know if, as the report goes, the American delegates to the conference have really received instructions never to renounce this right, even if the representatives of all the other powers should be of a contrary opinion.

In the hope that your excellency, with your usual courtesy and benevolence, may be able to satisfy the desire of my Government, I thank you in advance for all the information you may deem proper to furnish me on the subject.

Be pleased, etc..

FAVA.

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### No. 721.

*Mr. Bayard to Baron de Fava.*

DEPARTMENT OF STATE,
*Washington, February* 21, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, wherein you refer to the participation of the Government of Italy in the conference about to be held at Madrid in relation to affairs in Morocco, and express its interest in learning the views of this Government touching the right of foreign protection in Morocco, and especially whether, as is reported, "the American delegates to the conference have in reality received instructions never to renounce this right, even if the representatives of all the other powers should be of a contrary opinion."

In reply, I have the pleasure to inform you that Mr. Curry, the United States minister at Madrid, and Mr. Lewis, our consul at Tangier, who are to attend the conference as delegates, jointly and severally, of this Government, have simply been instructed to take part for the purpose of examining whether, as is alleged, the right of foreign protection is abusively exercised under existing treaties, and, if so, to recommend a remedy which will secure the ends in view of affording certain protection to the official representation of foreign governments and the legitimate business and personal interests of foreigners throughout the territory of Morocco.

Accept, etc.,

T. F. BAYARD.

No. 722.

*Baron de Fava to Mr. Bayard.*

[Translation.]

LEGATION OF ITALY,
*Washington, March* 18, 1888. (Received March 19.)

MR. SECRETARY OF STATE: The Royal ministry of foreign affairs has just informed me that an amicable arrangement has been reached in the case of a claim of one of my countrymen named Sagrine against the Government of Salvador, and that the negotiations which ended in this happy result were greatly facilitated by the good offices of Mr. Henry C. Hall, minister of the United States in Central America, specially authorized by your excellency to proceed to San Salvador for this purpose.

By direction of my Government, I hasten to transmit to your excellency its most cordial thanks for your kindness in authorizing the representative of the United States to aid in the equitable and prompt adjustment of this matter.

Accept, etc., FAVA.

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No. 723.

*Baron de Fava to Mr. Bayard.*

[Translation.]

LEGATION OF ITALY,
*Washington, April* 11, 1888. (Received April 13.)

Mr. SECRETARY OF STATE: In consequence of a murder committed on the 26th of February last, at Buffalo, N. Y., by Italians, who quarrelled among themselves, the chief of police of that city, Mr. Martin Morin, sent a general order to his officers to search those persons suspected of carrying arms forbidden by law, intending it specially for Italians.

On the 4th of March—in the evening, in fact—Captain Kilroy, of the first district, in execution of this order and after an understanding with his superior, proceeded with a large posse of police to arrest all the Italians he met in the streets, drinking saloons, and other places frequented by them, to the number of two hundred and fifty, took them to the station-house and searched them, whilst seventy-five others were subjected to a search in their own dwellings. Of three hundred and twenty-five persons two only were found in possession of clasp-knives, with saw and cork-screw, and were brought before Judge King. The next morning they were discharged as not indictable.

The arbitrary and malevolent measure of the chief of police of Buffalo towards the Italians, and its inconsiderate execution by Captain Kilroy, in entire violation of the personal liberty and inviolability of domicile guarantied by the Constitution and by international treaties, ending in so negative a result, has roused the numerous colony of Italians in the United States, has excited sarcastic comments of the local press, and has above all drawn the attention of the Italian authorities whose duty it is to watch over the safety of the rights of those who appeal to them.

For this reason the consul of the King at New York addressed on the 15th of March last to the governor of the State a note, of which I append

a copy, protesting against the arbitrary action of the police authorities of Buffalo and demanding reparation. (Annex A.)

In reply to this note His Excellency Governor Hill contented himself by transmitting, through his private secretary, to Mr. Raffo a letter, proceeding from the bureau of the mayoralty of Buffalo, communicating on his part a report of the chief of police upon the arrest and search *en masse* of Italians on the evening of the 4th March. This document (Annex B), which I also submit to your excellency's attention, can not be considered as convincing. Quite the contrary. Not only does Mr. Martin Morin, a party in the case, give no satisfaction to the demands of the consul, but he tends to confirm the facts themselves which have given rise to this reclamation. It results, in fact, that with a view of preventing possible crimes they have falsely interpreted an article of the penal code of the State, and in execution of a special order of police they proceeded to the arrest and search, not of Italians suspected of carrying forbidden arms, but of all Italians *en masse* (general search) found in the streets, drinking saloons, and at their dwellings. This latter fact, denied by the chief of police, is attested by the local papers, of which I append extracts. The chief of police after having decided to take arbitrary measures ("I decided that more arbitrary means would be used") to put an end to the sanguinary deeds which were being renewed among the Italians, determined to make a personal search of those among them suspected of being armed ("I determined on making a personal search of such of these people suspected of being armed"), and to that effect he instructed Captain Kilroy to "pick up such persons as the officers suspected, found loafing around the streets, or parties found in saloons and drinking places who were under the influence of liquor and inclined to be quarrelsome, and quietly search them." The captain observed that a general search would have the surest effect, and Mr. Martin Morin "seeing," said he, "that the captains are responsible for the execution of the laws and ordinances in their district," let him act according to his judgment. The captain, armed with this authorization, arrested and searched all the Italians *en masse*, at their dwellings and everywhere, and he obtained, no resistance being offered, the brilliant result which I have mentioned above. I shall not dwell, although it is not contradicted, upon the malevolent intent attributed to the chief of police of Buffalo in the Buffalo Daily Courier of March 9, of which I append the quotation, when, having been informed of the probable protest of the Italian consul, he said to Captain Kilroy, "Let the Italian consul come to find out if the search for Italian knives is ended, and then, when he is here, we will search him also to seize on his person the *stiletto*." I recall this newspaper story to prove what spirit seems to animate this magistrate, according to public opinion, against the Italians.

In view of the facts which I have just related, supported by documents, I am forced to have recourse to the good offices of the Federal Government in order that its spirit of justice and equity will take it into serious consideration, quite certain that it is only necessary to point it out to your excellency in order that the police authorities of Buffalo may be censured, through the interposition of the governor of the State of New York, and that arbitrary actions of this nature, so contrary to civil and natural rights and so odious to the Italian name, may not in future recur in the United States.

Begging your excellency to return the inclosures when you shall have done with them, I seize, etc.

FAVA.

[Inclosure 1.]

*Mr. Raffo to Governor Hill.*

CONSULATE-GENERAL OF ITALY,
*New York, March* 15, 1888.

EXCELLENCY: I have the honor to call your attention to the following facts relating to the police of the city of Buffalo, N. Y., purporting that the statement made to me about them be correct.

On February 26 ultimo two Italian residents of Buffalo had a quarrel between themselves, which resulted fatally for one of them. On March 4 Superintendent of Police Morin issued instructions to one of his dependents, Captain Kilroy, to arrest on that evening at a fixed hour all Italians found in the city, either in the streets, in bar-rooms, or in their houses. Three hundred and twenty-five of them were arrested, brought to Station No. 1, where they were all subjected to a bodily search, which, however, proved unsuccessful, as only two out of the three hundred and twenty-five were found to have concealed weapons, or rather a pen-knife, in their pockets. Three hundred and twenty-three were discharged on the moment and the two transgressors set at liberty on the following day by Judge King.

Supposing that some Italians may have infringed article 410 of the penal code, I don't think that the Buffalo police had any cause or right under such a pretense of violating individual liberty and home sanctity, guarantied by the Constitution of the United States and by international treaties.

Therefore I am obliged to protest against the unlawful arrest, and demand from you justice and adequate reparation.

Awaiting for the favor of an early reply, I remain, your obedient servant,

G. B. RAFFO,
*Consul-General for Italy.*

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[Inclosure 2.]

*Mr. Thayer to Governor Hill.*

MAYOR'S OFFICE,
*Buffalo, N. Y., March* 26, 1888.

DEAR SIR: I am directed by his honor Mayor Becker to transmit the inclosed report from the superintendent of police as an answer to your esteemed inquiry of the 17th instant, inclosing a letter from the consul-general of Italy in relation to recent arrests of Italians in Buffalo.

The mayor hopes that the explanation will be satisfactory, and bids me excuse the delay in answering by saying that the principal facts have been duly verified.

I have the honor to be, very respectfully,

HENRY S. THAYER,
*Secretary.*

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[Inclosure 3.]

*Mr. Morin to Mr. Becker.*

DEPARTMENT OF POLICE, CITY OF BUFFALO,
*Superintendent's Office, March* 21, 1888.

DEAR SIR: I herewith acknowledge receipt from your honor of communications from his excellency Governor Hill and the Italian consul-general, New York City, relative to the recent personal search for concealed weapons of Italians in this city, and to which I respectfully submit the following.

The order referred to and promulgated by me as superintendent of police is as follows:

GENERAL ORDER No. 1119. } DEPARTMENT OF POLICE, CITY OF BUFFALO,
*Superintendent's Office, February* 29, 1888.

You will at once take prompt measures to strictly enforce sections 410 and 411 of the penal code, in relation to carrying concealed weapons.

The recent murderous assaults committed in the city demonstrate that the foreign element of our population, especially Italians and Polacks, make a practice of carrying weapons prohibited by law.

They must be taught at once that this is a violation of the laws of this State; that it is a felony punishable by imprisonment in State prison, and that the practice must be stopped and the law obeyed.

When in your judgment you have reason to believe that any person or persons are carrying weapons prohibited by law, you will take them into custody, search them,

and if such weapons are found on them, charge them with the violation of the statute governing the same, and use prompt and legal means to convict them of the offense.

If the suspected persons are foreigners not thoroughly conversant with the English language and no weapons are found on them, before releasing them you will fully explain to them the cause of the search, the law on the same, the punishment prescribed by law, and that such searches will be continued by the police, and guilty persons punished to the full extent of the law.

MARTIN MORIN,
*Superintendent of Police.*

My reasons for issuing this order are as follows:

Since the advent of the Italians to this city within the past few years there have been a large number of cutting and stabbing affrays among them, several of which have terminated fatally. In many cases the police were unable to make any arrests, the parties injured and witnesses refusing to make any complaint or to give any information that would lead to the arrest and conviction of the guilty parties. Frequently the first knowledge that the police receive from them is from physicians summoned to attend the injured. They seem to act on the principle that the police have no business to interfere, that it is a private matter among themselves, and can be settled by the injured person or his friends retaliating when the opportunity occurs. The police have done their utmost to prevent these affrays, but in spite of their vigilance they continue, and the department has been censured for apparent neglect. An investigation of the last two murders, viz, Frank Marino, killed August 31, 1887, by Frank Curico, and Dominico Caprato, killed February 26, 1888, by Angelo Monico, show that both the murders were the result of this practice, "carrying daggers." The cause of the rows were trivial, and but for the fact that Curico and Monico were armed would have resulted in nothing more serious than a few blows.

I decided some time since that more arbitrary means would be used, and these murders and murderous assaults stopped, and as it is a maxim of the department that the prevention of crime is one of the chief duties of the police, I determined on making a personal search of such of those people suspected of being armed and disarming them, and continue doing so until the practice was stopped. After the Caprato murder, public sentiment was aroused to such a degree that a demand was made through the local papers (clippings inclosed) that this be done.

After the order was issued and before it was acted on, not wishing to take any undue advantage, I caused the order to be published in the daily papers, with the fact of such a search going to be made by the police, and further informed them through interpreters, as my object at this time was to teach them there was such a law and that it must be obeyed.

I wish to state here that in speaking of Italians in this order I do not include all of their nationality in the city, as among them are many law-abiding and respectable citizens, and who fully indorse the police in the action taken. The class that cause the trouble and against whom the order is principally directed are migratory and not permanently located here. They work on railroads and other public works during the summer months and congregate and live here during the winter season.

Previous to the execution of the order I held a consultation with Captain Kilroy, of the first precinct (in which precinct the greater part of the Italians are located), and suggested that in making the search he would pick up such persons as the officers suspected, found loafing around the streets or parties found in saloons and drinking places who were under the influence of liquor and inclined to be quarrelsome, and quietly search them. He contended a general search would have more effect, and that he could better obtain the object of the order in that way. As the captains are responsible for the enforcement of all laws and orders in their respective precincts I offered no further objections, but allowed him to use his own judgment.

He reports in all that about 150 persons were searched; that they were found on the streets, loafing at the corners and in bar-rooms and saloons; that no private houses were entered, and that his officers used judgment; that no person of known or apparent respectability was searched. He further informs me that Italian citizens here came to him personally, indorsed the action of the police, and asked him to continue such searches in his precinct.

In conclusion, I assure your honor and the honorable gentlemen interested that no persecution of these people is intended. The plain facts are that matters have reached such a point that the carrying of concealed weapons must be stopped, and the police force must do it. In enforcing some laws circumstances arise and obstacles are met with that necessitate what appears to be arbitrary action and severity on the part of the police. When the object to be attained is taken into consideration these harsh measures are mitigated, and due allowance should be made for the means used to obtain the end.

This explanation and apology I respectfully submit.

MARTIN MORIN,
*Superintendent of Police.*

No. 724.

*Mr. Bayard to Baron de Fava.*

DEPARTMENT OF STATE,
*Washington, April* 16, 1888.

SIR: I have had the honor to receive your note of the 11th instant in regard to the search of a number of Italians at Buffalo, in the State of New York, suspected of carrying concealed weapons in violation of law.

As appears by the papers accompanying your note this measure was taken in consequence of the commission lately of two murders and the occurrence of numerous stabbing affrays among the Italian inhabitants and in the Italian quarter of the city.

The Department can hardly consider the newspaper clipping which you inclose as competent proof of the facts therein stated, but as they have been adverted to and brought to the Department's attention, it is permissible to allude to the mode of living which they disclose, and which, in connection with the violations of law that have recently occurred, may not unnaturally give rise to uneasiness in the community and require vigilant precautions in the execution of the law.

It does not appear that the search was attended with any exhibition of violence, nor is any ground whatever discovered for the supposition that it was actuated by malevolence. It was completed in an hour and two men were arrested who were found with knives. What might have been the result of the search if notice of it had not been given in advance in the newspapers can only be conjectured. But it is not impossible that the prior publication by the superintendent of police of his intention to make the search may account in a measure for the absence of weapons which it disclosed. These observations are made not with a view to enter into a discussion of the merits of the case at this stage, but only for the purpose of stating the impression the Department has derived from the papers which seemed to you to warrant severe criticism on the action and motives of the Buffalo authorities.

In regard to your inference that the police acted upon a false interpretation of the penal code of New York, it is not competent for the Department to express an opinion. There can be no doubt that if the officers of the police exceeded their powers and violated the law in respect to the exemption of persons from unwarrantable arrests, an action lies against them for their misconduct, and in that way the law can be duly interpreted by the competent judicial authorities.

Accept, etc.,

T. F. BAYARD.

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No. 725.

*Baron de Fava to Mr. Bayard.*

[Translation.]

LEGATION OF ITALY,
*Washington, April* 17, 1888. (Received April 18.)

Mr. SECRETARY OF STATE: The note I had the honor to address to you on the 11th instant was mainly based upon the complaints communicated by the Italian colony in Buffalo to this royal legation and to

the King's consul at New York, relative to the arrest *en masse* which the police of Buffalo had deemed it their duty to make of all the Italians residing in that city.

My note, moreover, sought to bring about, thanks to the good offices of your excellency with the governor of the State of New York, an investigation *through the administrative channels*, in order to examine these complaints and do justice to them if they proved to be well founded, so as to prevent the recurrence of the acts which had given rise to them.

I would have been extremely obliged to you, Mr. Secretary of State, if, with your habitual courtesy, you had deemed yourself able to employ such good offices. They would have greatly contributed, not only to bring the facts to light, but also to allay in particular the alarm caused among the Italians of Buffalo by the exceptional measures adopted with regard to them.

Moved by these considerations I even flatter myself with the hope that those good offices, to which I most confidently make a renewed appeal, will be graciously vouchsafed to me as in the past.

In offering all my thanks to you in advance, I have the honor to beg you to be so kind as to return to me at the same time the documents which accompanied my note of the 11th of April, above mentioned.

Be pleased to accept, etc.,

FAVA.

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No. 726.

*Mr. Bayard to Baron de Fava.*

DEPARTMENT OF STATE,
*Washington, April* 30, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, in relation to the complaint communicated by the Italian colony in Buffalo to your Royal legation respecting the search by the police of that city of a number of Italians suspected of carrying concealed weapons, in violation of law.

In my note of the 16th instant, in response to your communication of the 11th, I had the honor to say that, as the complaint against the police of Buffalo appeared to rest chiefly on a supposed false interpretation by them of the penal code of New York, as to which this Department was not competent to express an opinion, no request could be made to the governor of New York of the character solicited; that is to say, that he should interfere to have the police of Buffalo censured for their alleged misconduct.

If the officers of the law exceeded their powers and acted in violation of the legal safeguards of individuals against unwarrantable arrests, a compensatory action would lie against them for their misconduct, and in that way the law could be duly interpreted by the competent judicial authorities.

To these views I am compelled to adhere, and it would not be competent for me, under our system of government, to prejudge the action of the local authorities of a State for alleged disregard of its municipal law, nor could I prefer a request to the governor of a State inconsistent with that principle.

But while I am not permitted to suggest to the governor of New York the course to be taken in regard to the complaint in question, or

in any way to intervene in the administration of the law, I have the honor to inform you that I will send a copy of your communications to me to the governor of New York for his information and such action as the circumstances may warrant.

Accept, etc.,

T. F. BAYARD.

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No. 727.

*Baron de Fava to Mr. Bayard.*

[Translation.]

LEGATION OF ITALY,
*Washington, May* 17, 1888. (Received May 18.)

Mr. SECRETARY OF STATE: The consul-general of the King at New York has just addressed to me the report of which I herewith have the honor to forward to your excellency a copy in the Italian language, with the request that you will be kind enough to have its contents examined by the competent authority.

By this report it appears that the custom-house at New York gives too broad and inaccurate an interpretation to the direction contained in the second section of the American law "to regulate immigration," in virtue of which "convicts" can not land in the United States.

The inconveniences set forth by the above-mentioned consul-general seeming to me to be of a nature to attract the kind attention of the Federal Government, I take the liberty of bespeaking in advance the good offices of your excellency, in order that, if necessary, new instructions may be given to the custom-house at New York to put an end to them.

In thanking you in advance I take this occasion to renew, etc.

FAVA.

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[Inclosure.]

*Mr. Raffo to Baron de Fava.*

ROYAL CONSULATE OF ITALY,
*New York, May* 16, 1888.

BARON: I have the honor to call your attention to a matter which has been reported to me by the president of the Italian Emigration Society of this city.

It is the duty of the collector of customs, as you are aware, to prevent the landing of such emigrants as do not fullfill the requirements of the Federal law governing immigration; one of the cases in which he is under obligations to send back an immigrant in the same vessel in which he came is when proof is furnished that the person is a *convict*.

This word evidently means one who has in any way avoided serving out the penalty to which he has been sentenced, either by flight or by expulsion, or even by means of a pardon, or who has been temporarily released, but it has been interpreted by the collector of customs of this port as applicable to those who have served out a term of imprisonment.

The clause to which I have referred, which was inserted in the law, in my opinion, in order to prevent what had sometimes been done by European Governments, viz, the shipments of convicts to America for the purpose of getting rid of them, is now interpreted in the most illiberal sense; according to this interpretation, persons are allowed to land in these States who do not come as immigrants, that is, as steerage passengers, and who are wanted by the police authorities of their own country. That is to say, those who, having the means to do so, escape to this country in order

to avoid the grip of justice in their own—in other words, real criminals are permitted to land without molestation, while those who have served out their time and can no longer be considered as convicts are debarred from doing so.

Of the immigrants who recently arrived by the steamer *Marthe*, twenty-eight, together with five who had arrived by the *Cachar*, were for the above reason detained at Castle Garden; of these, twenty-four, who had served terms of not more than one month each, were allowed to land, owing to the representations made by our immigration society; the others are to be sent back to Italy.

RAFFO.

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No. 728.

*Mr. Bayard to Baron de Fava.*

DEPARTMENT OF STATE,
*Washington, June* 8, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 17th ultimo, inclosing copy of a note from the Italian consul-general at New York, protesting against what he believes to be an erroneous interpretation by the collector of that port of the immigration act of 1882, in that he holds the term "convict" to be applicable to those who have served out their sentences of imprisonment.

A copy of your note has been transmitted to the Treasury Department, and I have now the honor to state that I am informed by the Secretary of the Treasury that that Department has uniformly held that an immigrant, previously convicted of a criminal offense, does not cease to be a convict within the meaning of the term as used in the act above-mentioned when he completes the term of his imprisonment.

It thus appears that the ruling of the collector, which was called in question, was in accordance with the unbroken course of decisions of the Treasury Department.

Accept, etc.,

T. F. BAYARD.

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No. 729.

*Baron de Fava to Mr. Bayard.*

[Translation.]

LEGATION OF ITALY,
*Washington, August* 2, 1888. (Received August 6.)

Mr. SECRETARY OF STATE: In compliance with the repeated requests of the population of Zoula, to the south of Massowah, which has until now been under the Egyptian flag, although occupied by our irregular troops, the Italian flag has just been hoisted in that locality by a detachment of marines, and an Italian protectorate has been formally established there and proclaimed in the name of the King's Government.

This protectorate, which has been unanimously approved by the local sheik and the population, is nothing new. It is the official confirmation of a pre-existing state of things. Irregular troops in our service, and sometimes even regular troops, have successively occupied Zoula, evidence of actual possession of which has never been furnished by any other power either before or since the "acte général" of the Berlin Conference of February 26, 1885.

In notifying the United States Government of the foregoing, in pursuance of the instructions of my Government and of article 34 of the aforesaid conference, I have the honor to beg your excellency to be pleased to take note of this communication, and to acknowledge its receipt.

Be pleased to accept, etc.,

FAVA.

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No. 730.

*Mr. Bayard to Baron de Fava.*

DEPARTMENT OF STATE,
*Washington, August 7*, 1888.

SIR: I have the honor to acknowledge the receipt of your note of 2d instant, in which, by order of your Government, you announce to the Government of the United States, according to the terms of article 34 of the Berlin Conference of 26th February, 1885, the establishment of an Italian protectorate over Zoula, south of Massowah, Africa; and to say in reply that until the United States shall, by subsequent accession and ratification of the general act of the Conference of Berlin, in the manner therein provided, become a party to the stipulations thereof, it will be impossible to determine the due and proper weight to be given by this Government to the announcement made in your note.

Accept, etc.,

T. F. BAYARD.

# JAPAN.

## No. 731.

### *Mr. Hubbard to Mr. Bayard.*

[Extract.]

No. 394.] LEGATION OF THE UNITED STATES,
*Tokio, Japan, October* 10, 1887. (Received November 2.)

SIR: I beg to respectfully call your attention and careful reading of the inclosed leading editorial which I have taken from the August number, 1887, of The Australasian and South American, a representative commercial journal and of marked influence in diplomatic and consular circles (and "devoted to the extension of commerce between the United States and Canada and Australasia, South Africa, South America and India, China and Japan, etc."), under the head of "Our trade with China and Japan." While the present status of that trade is in the main correctly stated, yet it is due to truth and candor to say that the writer of the article misleads, unintentionally, no doubt, as to matters of fact, when speaking of our volume of trade with these countries that—

> We are unmeasurably distanced alike by Germany and Great Britain, both of which countries look upon China and Japan as the most important fields for the development of their vast foreign commerce.

The statistics of the customs annual return for 1886 show, to use round numbers, that the aggregate export and import trade between the United States and Japan was over twenty-three millions of yen as against twenty-one millions between Great Britain and her colonies and Japan, and three millions between Germany and Japan, facts which I had the honor in my dispatch No. 346 to the Department of State to present fully by figures and tables in connection with a review of the annual trade of Japan with all countries for 1886.

It is true Great Britain's exports to Japan are largely in excess of the exports from the United States to this country, but the gratifying fact was made manifest in the trade returns for 1886 that the American export trade had increased during that year over 1885 nearly a million dollars in value. As to Germany, the entire sum total of her exports and imports is less than four millions, nearly twenty millions less than that of the United States with Japan. As to the other obstacles and disadvantages to our more enlarged commercial progress in this country, mentioned by the writer of the article inclosed, they are stated with force and fact, and deserve to be earnestly studied and heeded by our countrymen who propose extending our trade in the East with steady steps against all competitors. The hopeful horoscope cast by the same intelligent writer for the future of our trade relations in Japan and China, is not without sound support in reason.

I have, etc.,

RICHARD B. HUBBARD.

[Inclosure in No. 394.]

OUR TRADE WITH CHINA AND JAPAN.

The past few years have witnessed a very material increase in our trade with China and Japan, and present indications would appear to promise that within a reasonable time our commerce with both countries may attain something near the value it ought to possess. The most important feature of the increased trade returns, however, is to be found in the character of our exports to these markets, their variety having been extended in a manner that is particularly gratifying as affording the best proof of the growing extent to which the people of China and Japan are becoming familiar with our productions.

After all, however, when we come to compare the volume of our business with the value of the trade other nations enjoy with China and Japan, we have but little cause for satisfaction. We are unmeasurably distanced alike by Germany and Great Britain, both of which countries look upon China and Japan as among the most important fields for the development of their vast foreign commerce. There are two principal causes for the backward state of our trade with China and Japan, and we may profitably devote a little space to their consideration.

In the first place, we find the same obstacle to our commercial progress in these countries that we have so often called attention to in speaking of our trade with other markets, viz, far too little attention is bestowed on the introduction of our goods, which are almost expected to sell themselves. In nearly any part of the world, except in China and Japan, we might look for business growing out of the opportunities offered buyers by means of trade, literature, advertising, etc. There is little to be done in either of the above countries through such factors. Chinese and Japanese merchants are notoriously keen buyers; they not only want to know the lowest prices and discounts obtainable on any line of goods, the best terms of credit, etc., obtainable, but in nine cases out of ten they want to satisfy themselves, by personal inspection, of the character of the articles they are purchasing. This is only natural. Their customers, for the most part, cherish deep-rooted preferences for certain forms, patterns, and styles in goods of their own or foreign manufacture, and they will not tolerate any deviation from the often arbitrary standard they have established. It is only the native buyer who thoroughly understands what is needed for the market he supplies, and his orders, as received by the resident representative of the foreign manufacturer or merchant, must be minutely observed. Comparatively few American houses have taken the trouble to establish direct commercial relations with China or Japan through firms located in these countries, and the consequence is that their facilities for meeting the requirements of the market are inadequately realized, even by those who would willingly patronize American productions. England, Germany, and France are represented at the principal ports of entry by numerous mercantile houses and secure in consequence the bulk of a profitable and rapidly increasing trade.

The second disadvantage under which we labor in the development of our trade with both China and Japan is the lack of active support our merchants receive from the agents of our Government in these countries. England and Germany have made it their business to adopt every possible means to secure the personal favor and goodwill of Chinese and Japanese officials, and their rivalry in this direction leads them to discredit the efforts of other nations to obtain a footing in these markets. Agents of these Governments resort to every practice in their power, honest and otherwise, to decry competing influences and competition, even to the extent of belittling the business methods and progressive tendencies of the Chinese and Japanese merchants, and the various journals they control render them valuable assistance in this course. The effect of their action on the foreign commercial and diplomatic relations of both countries is in a high degree detrimental to their advancement, and is plainly proven by the extraordinary favors shown to this or the other nation, according to the influence its representatives are able to exercise in official circles. As an instance, we may refer to the large orders the Japanese Government has recently placed for steel rails in Europe. Half the contract has gone to English firms at £4 11s.; the other half has been taken by Germans, not at £4 11s., but at £5 6s. The rails are to be delivered free on board in London and Antwerp respectively. The difference of 15s. per ton represents in this case, says a writer in Iron, a free gift of about £10,000, presented by the Japanese Government to the German manufacturers. Of the motives for this gift, whether gratitude for favors past or to come, the English journal naturally knows nothing, but remarks: "British manufacturers can not be blamed for failing to secure business in the face of favoritism." It adds, somewhat ill-naturedly: "A conviction is fast spreading abroad that the Japanese Government and people are so fickle in their friendship and so unreliable in their commercial dealings that they are not worth taking the trouble to please."

It is gratifying to American independence to know that what trade we enjoy with China and Japan has been built up entirely on the merits of our productions, and is

not likely to be jeopardized by misrepresentations or such special pleadings as government agents are able to offer. In Japan, especially, the course adopted by our minister has created an excellent feeling in our favor in commercial circles, the most influential papers commenting frequently on the desirability of closer mercantile relations between Japan and the United States. In China much the same feeling prevails, except that the effect of our restrictive legislation against Chinese immigration and the bad treatment Chinese subjects have received in some parts of the country still weigh against us. That these adverse influences, provided their cause is not renewed, will ultimately disappear there is little room to doubt, and, with the progressive tendencies both China and Japan are at present exhibiting, American commercial enterprise, exerted in the right direction, is certain to develop the many and profitable opportunities for trade that these important markets afford.

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## No. 732.

### *Mr. Hubbard to Mr. Bayard.*

No. 409.] LEGATION OF THE UNITED STATES,
*Tokio, November* 28, 1887. (Received December 22.)

SIR: I have the honor and sincere gratification to invite the attention of the Department of State to the inclosed editorial of the leading and most influential native daily journal in Japan, the Jiji Shimpo, upon the present relations of American and Japanese trade.

I have had occasion heretofore to forward to your Department the able and friendly exhortations of this influential editor and statesman to his countrymen and Government to encourage, more than is now or has been done, the imports from the United States to Japan.

For two years past the columns of this widely-circulated journal have been largely devoted to giving, from official statistics, the status of the Japanese-American trade, and the business reasons, based on immemorial rules of international exchange of products in commerce, why the balance of trade should not remain, as now, against the United States.

That these discussions by such a man, who enjoys rightfully the confidence and the great respect of his Government, have awakened the Japanese, especially the Japanese mercantile and commercial public, to an earnest consideration of his views, is admitted on all sides, and by no one more cheerfully than the United States diplomatic representative at this court.

Inquiries made at this legation by private native capitalists of Japan, proposing to engage in building railways under Government charters, or merchants engaged in the silk or tea trade and who fear that unless a more friendly return for our nineteen millions of imports which are purchased in Japan is inaugurated that the *lex talionis* might be invoked and silk and tea be made to pay duty (as they do not now) to American customs—these inquiries, I repeat, often referring to the Jiji Shimpo, and seeking my own views as to their truth in this connection, have convinced me that largely to this native journal we owe the recent increase of exports from the United States to Japan of over $500,000 in 1886 over what it was in 1885, and the aggregate increase of both our exports and imports to twenty-three millions, being three millions more than Great Britain's exports and imports (from and to Japan) including all her colonies. In my intercourse with this remarkably able and progressive man (Mr. Fukuzana), whose biography may be found in "Lanham's Leading Men of Japan," I am gratified to recognize a bold and intelligent ally, who, with open hand and earnest integrity and for no mere favoritism of the courtier, but from convictions of justice to Japan

and fair dealing with the United States, has seriously and steadily pursued and still pursues the course indicated by the able leader from his pen, to which I have pleasure in inviting the attention of yourself and of our countrymen through the State Department.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure in No. 409—Translation.]

IMPORTS FROM THE UNITED STATES SHOULD BE ENCOURAGED.

[From the Jiji Shimpo.]

The public as a rule generally speak of Western nations as a whole, but if considered from their relations with the East, there must be different degrees in their grade. Germany and France, for instance, are strong continental powers of Europe, but their strength is only limited to Europe and their influence in the affairs of the Orient is not predominant. In the case of England, however, it is entirely different; she is the most influential power in the East with regard to commercial and military affairs. The circumstances being thus, we most strongly dissent from any action which may in any way wound the susceptibilities of that power. Therefore Japan should be careful not to injure the commercial interests of England, but, on the contrary, do all in her power to gain her good-will in diplomatic and other relations so far as is consistent with national honor. The above view is not only held by ourselves but also by those who have the welfare of the country at heart. Although we do not mean by the above that our commercial and other relations with foreign powers should be unheeded, yet we are of opinion that England should be placed in the foremost position in diplomacy as well as commerce in the affairs of Oriental nations.

Without any reference to political relations, there is one other country which is in no way inferior to England from a commercial point of view, the United States of America. The present foreign trade of Japan is 80,000,000 yen, of which 48,000,000 yen consists of exports. Out of this amount 19,000,000 yen are exported to the United States. Though a portion should be deducted from this amount which is forwarded for sale and consumption in Canada, yet the United States must be considered as the foremost of our customers. The commercial relations existing between England and Japan are only due to the large amount of imports from that country. The demand for yarns and shirtings is very great, and these, taken in connection with other manufactures, make the total value of imports from England 12,000,000 yen. She is the largest importer to Japan, but as a customer she is far inferior to the United States and even China and France. If a comparison be made between England and the United States on the basis of which country benefits Japan the more, we think we must decide in favor of the United States. Leaving the question of importance aside, what is most strikingly observable by the Japanese is, that the United States is a new country where everything is also new. It is not only observable in the increase of population and advancement of commerce, but also in the less cut and dried working way of things, through which Japan may be enabled to make substantial profits. In England and other European countries it is different, everything being carried on under a regular system, and although the commerce of those countries is prosperous, there is not much opening for Japanese enterprise. In the United States, however, Japanese may freely enter into commerce with a fair prospect of success, as will be seen on reference to the success of some of our most enterprising merchants. Japan is at present very busy in studying which of her productions will be the most suitable for export and also of most benefit to the country. Our most suitable exports seem to have been those accepted by the United States, and we would do well to stimulate as much as possible our present commerce with her in tea and silk. On careful examination it will be seen that the United States will in the future become the chief consumer of the productions of Japan. No one can deny the fact that it would be better for us to seek trade in the United States than to seek it in Europe. If the country is to be benefited in the future, the United States must in no wise be slighted.

One question—and that an important one—is the inequality of the balance of trade between the two countries. Our exports to the United States last year were 19,000,000 yen, while the imports from that country amounted to only 3,400,000 yen, which is only one-sixth of the export. This inequality was not noticed only last year, but it has been so for some years past, owing to the large increase in the export of raw silk. Unless some means are discovered to encourage imports from the United

States, the difference will become still greater year by year, as there is a prospect of our exports to that country being increased in the future, but it is also clear that this disproportioned state of trade is not causing loss to the United States. For instance, the import of raw silk from Japan is necessary to repel the import of European silks, which are high in price, owing to little competition, and as for tea and other articles which we forward, they stand outside the sphere of American productions. As they do not injure or interfere with American interests, it will be thought that it is best to leave it to take its own course, but in the trade of the civilized world it is incumbent that all the means in a nation's power should be brought to bear on trade for mutual benefit. It follows, therefore, that it is a moral obligation on the part of commercial men to order goods from their customers rather than from others if there is no difference in the price. The United States is just such a customer, so Japan must do her very utmost to oblige her and gain her esteem; therefore it is necessary that Japan should, in view of the moral obligation above mentioned, purchase from the United States instead of Europe. In addition to this there are many articles manufactured in the United States which are far superior to those of other countries, both in quality and cheapness. We will now mention a case in point. The entire capital to be invested in the railway industry is estimated at 50,000,000 yen; of this amount 25,000,000 yen will be paid for the importation of rails, locomotives, etc., from abroad. Although we consider that England stands foremost in the manufacture of rails, it is beyond all question that in the manufacture of locomotives and passenger cars none can equal the United States, and it would be well for us to purchase from her if only for the purpose of balancing trade. Other articles, if there is no perceptible difference in the price, should also be purchased from the United States. This is important, as it will be the means of greatly increasing the exports of Japan in the future.

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## No. 733.

### *Mr. Hubbard to Mr. Bayard.*

[Extract.]

No. 419.] LEGATION OF THE UNITED STATES,
*Tokio, December* 28, 1887. (Received January 21, 1888.)

SIR: I have the honor to inclose for the information of the State Department two copies of a late Imperial rescript promulgated on the 25th instant, intended, as expressed by the Government, to secure "the maintenance of public tranquility and to prevent disturbances opposed to the welfare of the people and to the nation's political reforms."

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure in No. 419.—Translation.]

IMPERIAL ORDINANCE, NO. 67.

I hereby sanction the following ordinance and order it to be duly proclaimed, deeming it necessary at the present juncture to the maintenance of public tranquility and to the prevention of disturbances opposed to the public weal and to the improvement of the administration and the progress of the nation.

[PRIVY SEAL.] HIS IMPERIAL MAJESTY'S SIGN-MANUAL.
December 25, 1887.
Countersigned:

ITO HIROBUMI,
*President of the Cabinet.*
YAMAGATA ARITOMO,
*Minister of State for Home Affairs.*
YAMADA AKIYOSHI,
*Minister of State for Justice.*

ART. I. Secret societies and secret assemblies are hereby forbidden. Those violating this regulation are liable to be punished with minor imprisonment for a period of

not less than one month and not more than two years, together with a correctional fine of from 10 *yen* to 100 *yen*. Ringleaders and instigators shall be liable to punishment two degrees heavier than the above. The minister for home affairs is authorized to provide and enact suitable measures for obstructing the communication or union of the above-mentioned secret societies and meetings, in accordance with article 8 of the meeting regulations. Any person violating them shall be liable to the above penalties.

ART. II. It shall be competent for the police, without preliminary reference to higher authority, to put a stop to open-air assemblies or meetings, should they deem such a step necessary. Persons acting in violation of this order, or inciting others to disobey, or persons willingly attending such meeting or assembly, are liable to minor imprisonment for a period of not less than three months and not more than three years, together with a correctional fine of from 10 *yen* to 100 *yen*. Any person acting as a follower of the above is liable to a fine of from 2 *yen* to 10 *yen*. And any person carrying arms or causing arms to be carried at such meetings or assemblies is liable to punishment two degrees heavier than the above.

ART. III. Any person or persons plotting or instigating disturbance, or who publish books or pictures designed to disturb the public peace, are liable to punishment under the criminal code and the press laws, and to the confiscation of all publications as well as the plant used in their publication. Ignorance of the import of such publications will not constitute a valid plea for exemption from the penalties imposed by this article.

ART. IV. Persons residing or sojourning within a radius of 3 *ri* round the Imperial palace or an Imperial place of resort, who plot or incite disturbance or who are judged to be scheming something detrimental to the public peace, may be ordered by the police or local authorities to leave the district within a fixed number of days or hours with the sanction of the minister for home affairs. Any person who does not depart within the stated time or day, or who after departure is again guilty of any of the aforesaid offences, is liable to a penalty of from one to three years' minor imprisonment and to police surveillance for a period not exceeding five years. Such surveillance to be exercised within the district of their original registration.

ART. V. In the event of peace and good order in any place or district being imperilled by popular excitement or preparations pointing to disturbance, it shall be within the power of the cabinet to proclaim that district and to order that the following provisions, either wholly or in part, be applied within it for a fixed period:

(1) All public meetings, whether in the open air or otherwise, under whatsoever pretext they may be held, shall be illegal, unless previous sanction has been obtained from the police authorities.

(2) The publication of all newspapers and printed matter shall be illegal without a preliminary inspection by the police authorities.

(3) It shall be illegal to use, carry, or trade in guns, pistols, gunpowder, sword canes, etc., without special permission from the local authorities.

(4) The comings and goings of travellers shall be submitted to surveillance and a special passport system will be put in force.

ART. VI. Persons guilty of offences against these regulations are liable to minor imprisonment for a period of from one to two years, together with a fine of from 5 *yen* to 200 *yen*. Any one guilty of an offence against the criminal code, as well as against these special regulations, shall be further liable to punishment under that code.

ART. VII. This ordinance shall be put in force and effect from the day of its promulgation.

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## No. 734.

### *Mr. Hubbard to Mr. Bayard.*

No. 426.] LEGATION OF THE UNITED STATES,
*Tokio, January* 13, 1888. (Received February 9.)

SIR: I have the honor herewith to transmit to the Department of State copies of "Imperial Ordinance No. 75," embodying certain amendments and alterations in the "Newspaper Regulations" of this Empire. While the Government has by the Imperial rescript issued on the 25th December, 1887 (forwarded to the Department in my dispatch No. 419), strengthened its powers against political agitators, they have almost contemporaneously, to a large and gratifying extent, struck the fetters

which bound the press, and thus widened the sphere for usefulness and power of this great promoter of civilization and just government. The punishments for the violation of certain articles (to wit, articles 1, 3, 4, 16, 17, and 18) of the former press regulations have all been reduced, being in most cases for the same defined offenses only about half as severe as formerly imposed. In some cases the reduction of punishments are even greater than that just designated. In article 31, for example, for the publication of articles tending to disturb the present form of government, the punishment has been reduced from imprisonment for from one to three years and a fine of from 100 to 300 yen to imprisonment for from two months to two years and a fine of from 50 to 300 yen. In this connection it is also gratifying to observe that the old article of the press regulations which prohibited the proprietor, editor, or printer of any newspaper which had been suppressed from acting in a similar capacity for two years has been entirely expunged, as well as several other articles of the old repressive rules imposing seemingly harsh and onerous punishments.

Taken as a whole, these new regulations in liberality are far in advance of the old ones and as such deserve and will receive the earnest welcome of all the treaty powers. It is a decided step to the front and towards what we are pleased to call the "liberty of the Press," as defined in England and America. While this step may seem to be, and in fact is, hesitating and timidly cautious, when viewed from the standpoint of the great English-speaking countries, yet appreciating as we should the difficulties under which this Government has labored, and the courage with which it has cut loose from the traditions of ignorant superstitions and the tyranny of feudal days in its wonderful strides toward higher national standards, and what real and unprecedented advances have been made within the past one-third of a century—a mere moment of time compared with the centuries of progress and ripening civilization of western nations—when these and other obvious conditions are regarded, the promulgation of such an imperial ordinance enlarging the liberties of the press may properly be welcomed as the harbinger of a brighter day for the people and the Government of the Empire.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure in No. 426.—Translation.]

IMPERIAL ORDINANCE.

We hereby give our sanction to the present ordinance relating to the amendment of the newspaper regulations and order it to be promulgated.

[PRIVY SEAL.] HIS IMPERIAL MAJESTY'S SIGN-MANUAL.

Dated the 28th day of the 12th month of the 20th year of Meiji.

Countersigned:

COUNT HIROBUMI ITO,
*Minister President of State.*
COUNT ARINORI YAMAGATA,
*Minister of State for Home Affairs.*
COUNT AKIYOSHI YAMADA,
*Minister of State for Justice.*

IMPERIAL ORDINANCE NO. 75.—NEWSPAPER REGULATIONS.

ART. I. Any person desiring to publish a newspaper shall, two weeks previous to the day of the first publication thereof, send in a notice to that effect to the department of state for home affairs through the local government authorities (in Tokyo,

be made or the communication of correction or protest shall be published in full in the second or third issue after the receipt of such demand or communication. In case the number of words in the said communication should exceed twice the number thereof in the original statement, the newspaper may make, for the number of words in excess, a charge at the rate established for ordinary advertisements.

The correction or protest shall be published in the same type as was the original statement, and at the head of the same division of the newspaper.

When either the language or the spirit of the said communication of correction or protest is in conflict with the law, or when the person demanding the publication of the said communication does not give his name and address, such communication need not be published.

ART. XIV. Whenever, with respect to items taken from the Official Gazette or from any other newspaper, a correction has been made or a communication of correction or of protest has been published in the Official Gazette or in some other newspaper, every newspaper shall make the correction, according to the forms described in the foregoing article, in its second or third issue after the receipt of the said newspaper, even if the party affected or any party concerned in the matter has not demanded it. The charge of advertisement can not be demanded therefor.

ART. XV. Whenever a newspaper has had a judgment pronounced against it on account of some matter published in one or the other of its issues it shall publish the sentence of the court in full in its next issue.

ART. XVI. No matter connected with the preliminary investigation of crimes or delicts shall be published before the public trial thereof has occurred.

No matters relating to a law case tried with closed doors shall be published.

ART. XVII. No article perversely vindicating a criminal shall be published.

No writing, the object of which is to defend or sympathize with a person or persons accused of a crime, or with an offender or offenders against criminal laws, shall be published.

ART. XVIII. No official document which has not been made public, no memorial, representation, or petition shall be published, either in full or in an abridged form, without permission of the competent Government office.

No deliberation in a Government office and no deliberation in a public assembly conducted with closed doors in compliance with the law shall be published either in full or in an abridged form.

ART. XIX. When the minister of state for home affairs recognizes that a newspaper is prejudicial to public peace and order, or is detrimental to morals, he may either prohibit or suspend the publication of the said newspaper.

ART. XX. When the publication of a newspaper has been either prohibited or suspended, the minister of state for home affairs may prohibit the sale and distribution of the said newspaper; he may also seize it.

ART. XXI. When a newspaper published in a foreign country is deemed to be prejudicial to public peace and order or detrimental to morals, the minister of state for home affairs may prohibit the sale and distribution of the said newspaper within the territories of this Empire; he may also seize it.

ART. XXII. The minister of state for war or the minister of state for the navy may issue a special order prohibiting the publication of matters relating to the movements of troops or of war vessels or to military or naval secrets or movements.

ART. XXIII. When a public prosecution has been instituted against a newspaper for a statement made therein, the public prosecutor may temporarily seize the said newspaper.

The judge may, according to the nature of the offense, confiscate the seized copies of the said newspaper.

ART. XXIV. Whenever a suit has been instituted against a newspaper for a statement made therein, and the plaintiff has proved that the avowed editor of the said newspaper has not in fact the principal charge of the editorial departments, but that there is besides him a chief editor, the judge shall hold both the avowed editor of the said newspaper and the real chief editor equally responsible for the statement.

ART. XXV. Whenever a suit for libel has been brought against a newspaper for a statement made therein, and the court recognizes that the statement in question has been made with no malicious intention to injure the person concerned, but for the sake of the public interest, the court may permit the defendant to prove the fact, except when the statement relates to personal matters. When the proof has been established, the newspaper shall be cleared of the charge of libel. The same shall also apply when a newspaper shall have been sued for damages.

ART. XXVI. Whenever a newspaper does not pay the full amount of the expenses and of the fine it has been condemned to, or does not pay the damages pronounced against it, within a week after the conclusion of the case, the security it has deposited shall be utilized for the purpose; and when such security is insufficient, the deficiency shall be exacted according to the provisions mentioned in the criminal code for the collection of the expenses of justice and of civil amends.

In case the security has been utilized for the expenses of the trial, for the damages or for the fine imposed, the publisher shall make up the deficiency within a week from the receipt of notice to that effect from the local government authorities (from the metropolitan police office, in Tokyo). Should there be failure to pay the full amount due, the chief of the metropolitan police office or the governor of the locality shall stop the publication of the newspaper in question until the said full amount due shall have been paid.

ART. XXVII. When the notice mentioned in Articles I, III, and IV has not been sent in, or when the provisions of Articles VI, VII, XI (first clause), and XII have been violated, or when a newspaper for which security is required has been published without the deposit of the security, the publisher shall be liable to a fine of not less than 5 *yen* and not more than 100 *yen*. Any one convicted of the offence of the assumption of a false signature or title shall be liable to the same punishment as the publisher.

When truth is withheld in sending in the notices mentioned in Articles I, III, and IV, the publisher shall be liable to a minor imprisonment of not less than one month and of not more than six months, or to a fine of not less than 5 *yen* and not more than 100 *yen*.

When a newspaper belonging to the category mentioned in the last clause of Article VIII publishes matters that ought properly to be contained in a newspaper for which security is required, the editor shall be liable to the same punishment as is set forth in the preceding clause.

ART. XXVIII. In case of the violation of Articles XIII, XIV, and XV, the editor shall be liable to a fine of not less than 5 *yen* and of not more than 100 *yen*.

ART. XXIX. In case of the violation of Articles XVI, XVII, and XVIII, the editor shall be liable to a minor imprisonment of not less than one month and of not more than six months, or to a fine of not less than 20 *yen* and of not more than 200 *yen*.

ART. XXX. Any person who sells or distributes a newspaper in violation of Article XXI shall be liable to the same punishment as is set forth in the preceding article.

ART. XXXI. In case of the violation of Article XXII, the publisher and editor shall be liable to a minor imprisonment of not less than one month and of not more than two years, or to a fine of not less than 20 *yen* and not more than 300 *yen*.

ART. XXXII. When in a newspaper an article has been published the object of which is to undermine the existing system of government or to disturb the constitutional laws of the Empire, the publisher, editor, and printer of the newspaper shall be liable to a minor imprisonment of not less than two months and of not more than two years, with a fine of not less than 50 *yen* and of not more than 300 *yen*.

In case of the violation of this article, the apparatus used for the purpose shall be confiscated.

ART. XXXIII. When a newspaper of obscene character has been published, the publisher and editor thereof shall be liable to a minor imprisonment of not less than one month and of not more than six months, or to a fine of not less than 20 *yen* and of not more than 200 *yen*.

ART. XXXIV. In the case mentioned in Article XIII the offence connected with personalities shall be brought to a settlement by the institution of a suit by the injured party.

ART. XXXV. The provisions mentioned in the criminal code for the mitigation of penalties on account of voluntary confession, for the aggravation of penalties on account of repetition of offence, and for the concurrence of several infractions committed by the same person, shall not be applied in cases of the violation of any of the provisions of the present regulations.

ART. XXXVI. The term of prescription for the institution of public prosecution in connection with the present regulations shall be six months.

ART. XXXVII. The present regulations shall also apply to such magazines published periodically as do not come within the scope of the publication regulations.

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## No. 735.

### *Mr. Bayard to Mr. Hubbard.*

No. 206.] DEPARTMENT OF STATE,
*Washington, April* 16, 1888.

SIR: I inclose for your information and files a copy of my letter to Mr. George Cowie, attorney, dated the 13th instant, reviewing the *Monitor* claim against Japan, and concluding that this Government could not consistently press it further upon that Empire.

I am, etc., T. F. BAYARD.

[Inclosure in No. 206.]

*Mr. Bayard to Mr. Cowie.*

DEPARTMENT OF STATE,
*Washington, April* 13, 1888.

SIR: Referring to previous correspondence and to the representations heretofore made by you to the Department in relation to the *Monitor* claim against Japan, I have to inform you that the case has been carefully examined in connection with the declination of the Japanese Government to submit it to arbitration, and certain conclusions have been reached which I will now proceed to state.

The facts in the case, as derived from the contemporaneous statements of the captain, chief officer, and chief engineer of the *Monitor*, and of three passengers made before the consul of the United States at Nagasaki, are as follows:

The *Monitor*, also known as the *Fee Pang*, was an American steamer belonging to the firm of Drake & Conklin, of San Francisco, Cal., who, in 1864, were engaged in business at Shanghai, China. On the 3d of July of that year she went from the port of Hakodadi, Japan, bound, it is alleged, to the port of Nagasaki. Encountering adverse winds, she ran short of fuel and water, to obtain which it is stated she entered, on the evening of the 11th of July, a large bay, on which were settlements whose presence gave promise of the needed supplies. This bay was in the dominions of the Prince of Nagato, then in rebellion against the Government of the Tycoon, and was not open to commerce.

What followed is best described by a quotation from a note from the United States consul at Nagaski to the governors of that place dated July 20, 1864.

This dispatch summarizes the statements which had been made a day or two before by the witnesses on board of the *Monitor* as follows:

"Soon after anchoring a boat containing two men came alongside and asked the nationality of the vessel and her business. Reply was given through a Japanese servant, who was on board, that the vessel was American and had come there for a supply of coal or wood and water, which would be thankfully received and paid for. At the same time the American flag was hoisted. The men in the boat gave no other response than that the town was a small one and had neither of the articles wanted to spare, and that they would inform the high officer of their wants. As it was night however, the captain concluded to wait till morning.

"During the night many lights were seen moving through the town and boats passed from one town to the other.

"At daylight on the morning of the 12th the persons on board the *Monitor* were startled by a shot being fired at them from a battery of four 12-pound guns situated about 500 yards to the eastward of their anchorage.

"The captain immediately ordered steam to be made and in about one hour it was ready. During the intervals the firing was continued from the battery, none of the shot, however, taking effect.

"About the time steam was ready and the anchor was being heaved up, persons in the town, screened by mats which had been put up during the night, commenced firing at the vessel from small-arms, and it is estimated that at least one thousand shots were thrown simultaneously. Twenty-two struck the vessel's side and remain buried in the wood; the rest went over or fell short. Shots were also fired at intervals from a battery of eight long guns situated about 2 miles off, but none of these shots took effect, and happily no injury was done to any person on the *Monitor* by any one of the shots."

Such were the attacks and the injuries inflicted upon the *Monitor*, as contemporaneously related by her officers, and by three passengers, one of whom was Mr. Drake a part owner. It is also stated that the captain was another part owner.

What transpired after the firing upon the *Monitor* is related by the United States consul in the same note, as follows:

"When the anchor was up and the vessel out of range the captain commenced throwing shells into the town from two rifled guns he had on board. Twenty-six were thrown, and it is thought nearly all took effect. The town was set on fire in two places, but the flames were quickly extinguished.

"The American flag was hoisted on the ship when the first shot was fired.

"The fuel on board being nearly finished, the captain steamed away, and after much labor for two days, made the island of Tsu-Sima, where he found the anchorages and wood and water sufficient to enable him to reach this place" (Nagasaki).

In addition to the communication to the governors of Nagasaki, from which the above quotations are made, the consul laid the case at once before Mr. Pruyn, then the minister resident of the United States in Japan, who received the consul's letter at Yeddo, and immediately had a conference with the governors for foreign affairs, sent

to him for that purpose by the ministers. The result of this conference is reported in a dispatch of Mr. Pruyn to Mr. Seward of the 8th of August, 1864, as follows:

"The Japanese governors very properly asked me to wait till they had received letters from the governors of Nagasaki before entering into the consideration of the subject, engaging, however, to make a speedy and satisfactory settlement of the matter.

"I made no claim, nor do I feel disposed to make any in favor of the owners of the vessel, one of whom was on board at the time.

"While I have no reason to distrust the truth of the declaration that they were destitute of coal and that they were obliged to go into the harbor, I can not forget that while here in 1863 the same vessel entered a port in the territories of Satsuma; and it would be unwise to encourage owners of vessels brought to this country for sale to enter the ports of hostile Daimios, or any ports not open to trade."

In September, 1864, the treaty powers made a hostile demonstration against the Prince of Nagato, destroyed the batteries of Chosu, commanding the Straits of Simonoseki, and compelled an unconditional surrender. The Tycoon was then required to express his disapproval of the course of his adversary, the rebellious Prince, which he readily did, employing in regard to the firing on the *Monitor* the characteristic oriental phrase that "he had no language to express his indignation;" and to provide for the payment of the expenses of the expedition, or in lieu of the latter to open more of his ports to commerce. Accordingly a treaty was concluded on the 22d of October, 1864, by representatives of the United States, Great Britain, France, and the Netherlands, on the one part, and by a representative of the Tycoon, on the other, under which his Government agreed to pay to the four powers $3,000,000, "to include all claims of whatever nature for past aggressions on the part of Nagato, whether indemnities, ransom for Simonoseki, or expenses entailed by the operations of the allied squadrons," or else to open Simonoseki or some other eligible port in the Inland Sea.

In notifying his Government of the conclusion of this treaty, Mr Pruyn, in a dispatch of October 29, 1864, said: "Should the Tycoon be averse to the opening of another port, and fail to make such offer in lieu of the payment of indemnities and expenses, the amount agreed on will not be regarded as unreasonable. But should he make the offer it will be at the option of the four powers to accept it in full or in part payment, and in that event a moderate pecuniary fine may be imposed.

"In either case provision will be made for a reasonable indemnity for injuries sustained by the *Wyoming* and *Monitor* and for the insult to our flag offered by the attack on those vessels, as well as on the *Pembroke*, the owners of which have received from the Japanese Government a sum which covers their loss as estimated by themselves."

Subsequently it was arranged that the money should be paid, and in a dispatch of the 20th of January, 1865, Mr. Pruyn, referring to the case of the *Monitor*, says:

"The *Monitor* case is now provided for by the convention. I have advised the owners they must now look to our Government. Their case is not a very strong one. The vessel is found wherever and whenever there is trouble in Japan. The consul at Nagasaki had a complaint preferred on them by the governor of the port that the ubiquitous steamer had put into a small port in an island not far distant, it was claimed, for repairs. It is now daily expected here. When I have given the owners an opportunity for explanation I will send a dispatch."

The next communication from Mr. Pruyn on the subject transmitted a complaint of the Japanese authorities that the *Fee Pang* had been entering ports not open to commerce and under the dominions of Daimios in rebellion against the Government of the Tycoon.

Still later, on the 30th of August, 1865, the Department received a dispatch from Mr. Portman, chargé d'affaires of the United States at Yeddo, from which I quote the following passages: "At last I am enabled to transmit copies of the correspondence on the subject of the recent unlawful proceedings of the steamer *Fee Pang* (late *Monitor*). * * * The facts in this case are briefly as follows: In the latter part of February last Mr. H. K. Drake, an American citizen on board of the steamer *Fee Pang*, late the *Monitor*, of which he is the principal owner, arrived at the non-opened port of Simonoseki, in the province of the Prince of Nagato, who was then and is still in rebellion against the Japanese Government. While there he took charge of the steamer *Senkatsimaro*, late the *Lancefield*, belonging to the Prince, which had been damaged in her action with the *Wyoming* in July, 1863. Mr. Drake then caused the steamer to be sufficiently repaired so as to enable her to proceed to Shanghai. Accordingly Mr. Drake arrived at Woosung, near Shanghai, on the 22d of March, with the two steamers, the *Fee Pang* and *Senkatsimaro*, and about fifty subjects of the Prince of Nagato aboard of those vessels; he was provided with a document purporting to be a power of attorney from the Prince of Nagato, from whom he then, under this power of attorney, bought that steamer for his firm of H. K. Drake & Co., and, after examination of the title, the transfer was made accordingly at the consulate-general at Shanghai."

These transactions, it is to be observed, were with the same rebellious subjects for whose previous action in regard to Drake & Co.'s vessel—for whose presence in the hostile territory distress could not be alleged on the occasion last above described—damages were claimed from the Tycoon's Government.

The Japanese Government complained loudly of these proceedings, and when the *Fee Pang*, or *Monitor*, on the 3d of May, 1865, came within the jurisdiction of the United States consul at Nagasaki that officer at once ordered her to come into port, with a view to prosecute her for a violation of the treaties by entering unopened ports and giving aid and comfort to those who were in rebellion against the Tycoon's Government. Mr. Drake, who was again found on board, declined to enter at that time, but came in at night, took a supply of coal and three Chinese passengers, and before daylight of the 4th of May had disappeared with the vessel.

In November, 1866, Nathaniel J. Miller filed in this Department a claim, as assignee of Drake & Conklin, for $35,000 as compensation for losses and injuries consequent upon the attack on the *Monitor* at Nagato. The claim was referred to the examiner of claims for the Department of State, Mr. E. Peshine Smith, who, while reporting on the 6th of February, 1867, that the claimant had a just demand against the Japanese indemnity fund for the amount of actual damages, said: "I think it clear that if his (Mr. Drake's) claim for the injury to the *Monitor* had then (in 1865) been under discussion with the Tycoon, we should have declined to prosecute it for him." This opinion was expressed by Mr. Smith after a review of what has been above detailed as to the career of the *Monitor;* and in a postscript to his report he says:

"Upon a conference with Mr. Pruyn, subsequent to the date of the above report, I obtained an impression that the damages are greatly exaggerated, and that it would probably require the taking of testimony in China to ascertain the just amount."

It appears by a dispatch of Mr. Van Valkenburgh to Mr. Seward, November 2, 1868, that the vessel had repeatedly been offered for sale at Yokohama and at Nagasaki, first for $15,000 and then for $10,000, but without success, as she was deemed unseaworthy. She was finally sold for $8,500. It is also to be observed that while the claim before Mr. Smith was for "direct injuries to the ship, boilers, and machinery by cannon shot" and other things, it nowhere appears by contemporaneous evidence that the ship suffered any serious injury from being fired upon, nor that her boilers and machinery were ever touched by the missiles. The consul at Nagasaki makes no such suggestion; he states that the cannon balls failed to reach the vessel; the marine protest extended, a copy of which is now filed in the Department, contains the same explicit statement and completely sustains the consul's contemporaneous account, based on the testimony taken before him of those on board, that the only injury the vessel received was from some balls which were fired by the natives from small arms and which stuck in the steamer's planking. "Twenty-two," says the consul, "struck the vessel's side and remain buried in the wood; the rest went over or fell short."

So far as any insult to the flag of the United States was concerned, that was fully disposed of by the forcible action of the United States with the other treaty powers against the Prince of Nagato. And if the actual damage to the *Monitor* in consequence of being fired upon be taken as the measure of damages, claim could have been made but for a very inconsiderable amount; for it is impossible upon the contemporaneous evidence to arrive at any other conclusion than that the damages to the vessel were trivial and scarcely appreciable.

The report of Mr. Smith, as above described, was communicated by Mr. Seward, Secretary of State, to Mr. Sumner, of the Senate, on the 10th of February, 1868, without comment, and a joint resolution was subsequently introduced in that body to authorize the Secretary of State to ascertain and pay the amount of damages to the *Monitor* or *Fee Pang* "for the injuries sustained from being fired into by the batteries of the Daimio of Nagato in July, 1864."

This joint resolution was never acted upon, but it may be observed that it contained the erroneous assumption that the vessel was injured by shots from the batteries, none of which in fact reached her.

By an act of Congress approved February 22, 1883, the President was directed to return the Japanese indemnity fund to the Government of Japan, after deducting a certain amount for the officers and crew of the United States ship *Wyoming* and of the steamer *Takiang* for services in destroying hostile vessels in the Straits of Simonoseki, the former on the 18th of July, 1863, and the latter in September, 1864. No provision was made for the case of the *Monitor*, and the indemnity fund has consequently been returned to Japan without any deduction on account of that claim. It appears that in June, 1881, Mr. Walker Blaine, the private secretary of the Secretary of State, wrote to you, as the attorney for the claimants, that unless facts should come to the knowledge of the Secretary of State in the mean time which could warrant a change of view as to the equity of the claim, he would request from Congress, at its next session, authority to adjust it.

The absence of any further action by the Department is explained by saying that the Japanese minister requested you to call at the legation and assured you that if

you would not prosecute the claim further before Congress or the Department, the matter would be settled and paid promptly and "liberally" immediately upon the passage of the indemnity bill. You state that, relying upon these assurances, you took no further steps in the matter, although you say that, "but for the intervention of the Japanese Government, through its then minister, Congress would have no doubt acted favorably on it when it passed the indemnity bill in 1882."

The Japanese legation, when applied to by this Department for information, denied that any promise to pay the claim had ever been made by the minister or by any one authorized to speak for the legation.

To controvert this denial you have filed your own affidavit as to the minister's promise, and the sworn statements of two other persons as to promises made by certain persons who were understood to have been employed at times for various purposes by the legation.

Without entering upon these contradictory statements, the Department, as you are aware, instructed the United States minister in Japan, in July, 1885, to lay the case before the Japanese Government in order that it might have an opportunity to consider its equities; and it was suggested that the whole matter might be referred to an arbitrator on the merits.

The Japanese Government having declined this suggestion, after a full examination of the case, it now becomes necessary for this Department to decide whether the claim should be pressed further by the United States against the Government of Japan.

I have therefore to consider, first, the questionable features of the case, arising from the general conduct of the owner of the vessel both before and after he was fired upon, which led Mr. Pruyn to pronounce the case "not a very strong one," and Mr. Smith to declare, in the report transmitted by Mr. Seward to Mr. Sumner, that he thought it "clear" that if the claim for injury to the *Monitor* had then been under discussion with the Tycoon the United States would have declined to prosecute it for him.

In the second place, it has been shown that the injury to the vessel was of an exceedingly slight character; that even those who have pronounced the damages claimed to be exorbitant, have erroneously supposed the vessel was seriously injured by cannon-shot; and that no tangible elements of damage have ever been satisfactorily established by the claimants.

In the third place, it would be unfair to press upon the Japanese Government a claim which it has rightly treated as settled with the United States more than twenty years ago, and of which, as Count Inouye informs us, there is no record in the Japanese archives.

In the fourth place, the return of the "indemnity fund" to Japan, with deductions on account of certain claims, and none on account of the *Monitor*, or *Fee Pang*, appears as an adverse judgement of this Government upon the latter claim, and estops it from making a demand on the Japanese Government for its payment.

In the fifth place, no avoidance of the conclusion last above stated, or new ground of claim can be derived from conversations with the Japanese minister, or with any of his alleged agents.

At the time these conversations are alleged to have taken place the Japanese indemnity fund was in the possession of this Government, and its disposition was then subject to the action of Congress. This being so, it was the duty of citizens of the United States to present their claims before that body, and any withdrawal, such as has been alleged, of a claim from its consideration, thus forestalling its action, would, if encouraged or approved, be highly detrimental to the public interest. An agreement between a foreign minister and a citizen of the United States, under such circumstances, and for the purpose of influencing Congressional action, would not be one which, even if evidenced in writing, could be recognized by this Government. Under reversed conditions this Government could not for a moment entertain the proposition that it was in any way bound by such a transaction.

Such an agreement, made in the hope of terms more "liberal" than could be regularly obtained, can not be made the basis of an international claim. Nor can evidence of such an agreement be admitted to overcome the act of Congress directing the return of the "indemnity fund," and not providing for the payment of the *Monitor* claim. It is a rule of law universally recognized and enforced that evidence of extrinsic facts (not rules of law or acts of legislation) occurring prior to the passage of a bill can not be resorted to to prove the intention of the legislature or to explain its action.

Upon a full and careful review of all the facts and circumstances, it is my duty to inform you that the Department is unable to press the *Monitor* claim further.

I am, sir, etc.,

T. F. BAYARD.

No. 736.

*Mr. Hubbard to Mr. Bayard.*

No. 495.] LEGATION OF THE UNITED STATES,
*Tokio, July* 26, 1888. (Received August 20.)

SIR: Deeming the subject of sufficient moment, and certainly of painful interest to all nations who hold friendly relations with Japan, I have the honor to inclose herewith a copy of a report which has been made to me by Mr. Mansfield, secretary of this legation, who visited the scene of the recent remarkable volcanic eruption of the mountain (Bandai-san) in the province of Inawashiro, about 166 miles from this capital, Mr. Mansfield having undertaken the trip a few days after the event, by my advice and consent, at his own expense.

The Japanese Government having dispatched scientists to the scene of the eruption, it is expected that a technical report on the same will be published at no distant day, and such report, together with anything else in connection with the same subject which may be of possible interest to the Department, will be forwarded immediately on its publication.

As will be seen by the inclosed report to me, the Imperial Government has done everything in its power for the relief of its destitute people who have suffered by this calamity.

Individual subjects of the Empire, as well as subjects and citizens of foreign powers resident in this country, have added their contributions to the relief fund.

The catastrophe, involving as it did the instant death of over five hundred people, besides the wounding of others and the destruction of thousands of acres of rich, cultivated lands with growing crops, the greater part of it hereafter useless for tillage, thereby attaches to its occurrence a feeling of sympathy extending far beyond the boundaries of the Empire, on whose unfortunate subjects its consequences have fallen.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure in No. 495.]

*Mr. Mansfield to Mr. Hubbard.*

JULY 25, 1888.

SIR: I have the honor to submit the following report of the recent trip, undertaken by your advice and consent, to the scene of the volcanic eruption of the mountain of Bandai-san in the province of Inawashiro.

According to the statements of those with whom I talked, of the survivors of the destroyed villages, and of the people who live in the district for miles around, rumblings were heard and tremors felt in the neighborhood of the mountain on Sunday morning the 15th instant.

The first disturbance noticed occurred at 7 o'clock a. m., and was followed by three earthquake shocks at intervals of ten minutes apart, when a loud explosion took place, the noise of which the people compare to the report of thousands of cannon discharged simultaneously. This was accompanied by another terrible earthquake shock, which so frightened the people that they attempted to escape. Reaching their doors they saw a thick black smoke arising from the principal peak of Bandai-san, and found themselves at once enveloped in the darkness of night, while the air was filled by a shower of fine black ashes and suffocating sulphurous dust. The violence of the earth tremors made it impossible for them to stand, so that the only way left

them to escape was by crawling on their hands and knees. As soon as it grew light enough again to see, and the earth tremors had ceased sufficiently to allow them to stand upright, they fled down the valley amid the dust and ashes and falling rocks, some being killed or wounded by the way. So great was the terror which affected the people that they came running from the district around the mountain, and even from places miles away, to points of safety, many of them naked and bleeding, and all almost in despair.

The eruption reached its height at 10 o'clock a. m., and at 4 p. m. had entirely ceased.

When I reached Inawashiro, at the foot of the southwest slope of the mountain, most of the people from this town had returned to their homes, many of them only on the day before my arrival.

The Imperial Government had set up a hospital for the treatment of the wounded, and had organized a relief committee to look after the homeless and to recover the bodies of those who had been killed. Nothing, indeed, had been left undone by the Imperial Government to alleviate the sufferings of the people so far as it lay in their power to do so.

The number of lives lost, according to the official statement given me at the Government relief station at Inawashiro, was 518, and the number of bodies recovered up to that time 70, while 41 persons were then in the temporary hospital at Inawashiro, under treatment for injuries received at the time of the disaster.

The eruption occurred from the eastern side of the principal peak of Bandai-san, the first discharge of which was evidently thrown directly across the summit of the smaller peak of the same name, carrying a portion of the latter away with it, and leaving the altered contour of the smaller mountain covered with mud and fine ashes, which also found its way over the sides and between the slopes of the two on the northern and eastern exposures, and running down in a stream to the valley below.

There were two separate streams, the eastern and the northern. The main eastern stream, divided about half way up the mountain by a ridge, came down in two separate volumes, the one continuing eastward, while the other descended on the southern side of the mountain and stopped at a very small hamlet called Mino-Mura, which was partly destroyed by the mud, which completely covered the houses within its reach.

The amount of mud thrown out by the volcano is simply enormous, as all the streams reach from the top of the mountain a distance of 4 or 5 miles, and at the southern and eastern sides, which I visited, half a mile wide at the base, the breadth of the stream on the northern side being, I am told, larger.

The greatest loss of life occurred at the hot springs on the northern side, where the first discharge took place, thus giving the people there little or no opportunity to escape.

At Inawashiro, at the foot of the southwestern slope of the mountain, and the principal town in the vicinity on the southern side of Bandai-san, no houses were destroyed, as it was just beyond the reach of the streams of mud, although some thirty persons while attempting to escape were killed by falling stones.

At Shibatani, 2 miles from the foot of the mountain, on the east, nearly every house was thrown down by an earthquake shock, the stream of mud not reaching that far. It was noticed, however, that the roofs of the houses, as well as every everything else for some miles east of the mountain, were covered with a fine dust and ashes to the depth of about 6 inches.

At Nagasaka, a small hamlet further to the east, the loss of life was very great, although not a single house was destroyed.

It seems that the water of a stream flowing within a hundred yards was diverted from its course, and augmented, it is supposed, by a large volume of water from some other source, swept down the narrow valley in which the town is situated, carrying with it those who ran out of their houses at the sound of the explosion. A pond was formed at the village of Nagasaka, out of which thirty corpses had been taken up to the time of our arrival. The total number of deaths at this place was 130. A curious feature of the eruption appears in a long embankment, evidently thrown up during the earthquake, in the vicinity of the above-named village and extending some distance beyond it. It is surmised that this formation may have some connection with the extraordinary flood of water which proved so disastrous in causing the loss of life.

Besides the great loss of life and the injury to dwellings, almost irreparable damage has been done to the rice crop and cultivated grounds for miles on the east of the mountain, some of which land will never be fit for cultivation again.

The distance from Tokio to Inawashiro is about 166 miles, 136 of which may be traveled by railway and the rest by jinricksha.

I have, etc.

F. S. MANSFIELD.

No. 737.

*Mr. Hubbard to Mr. Bayard.*

No. 511.] LEGATION OF THE UNITED STATES,
*Tokio, October* 16, 1888. (Received November 8.)

SIR: I have the honor to inclose a copy of a communication addressed to me by Mr. C. R. Greathouse, United States consul-general at Kanagawa, inquiring as to the political status of a Japanese wife of one Joseph Ratcliffe, a British subject now and for the past seven years a seaman in the United States Navy. The particulars of the marriage of the said Joseph Ratcliffe to a Japanese woman at Hong Kong are fully set forth in the inclosed communication; and the consul-general desires to be informed as to whether or not he has the authority to register Mrs. Ratcliffe in his consulate-general as under the temporary protection of the United States while her husband is serving under the United States flag.

It is, of course, generally conceded that while serving under the United States flag a foreign seaman is under the protection of the United States and to be considered during the time of said service as a citizen of the United States; and it is equally well established that "a wife's political status follows that of her husband;" but according to the principle laid down by Attorney-General Hoar and quoted by Mr. Secretary of State Fish in his instruction to Mr. Jewell, dated June 9, 1874, it appears that Mrs. Ratcliffe's status in Japan would depend to a great extent on whether or not the Japanese Government recognized her marriage at Hong-Kong.

It is understood that the Japanese Government does not recognize the legality of marriages between Japanese women and foreigners without the consent of the Government, and after certain formalities have been complied with. The Japanese Government has a thorough system of registry of its subjects, and when all formalities have been complied with by a woman marrying a foreigner, her name is then, and not till then, stricken from the register of Japanese subjects. With a view of ascertaining the position of the Japanese Government in regard to such marriages, I have, without stating the case of the said Ratcliffe, asked Count Okuma, in an official note, what would be the status in Japan of a Japanese women who had married a foreigner abroad, complying with all the laws of the country in which the ceremony was performed, the wife returning to take up her residence in Japan with her husband, and asking him to inform me to what extent the marriage would be recognized by the Japanese Government.

When the reply of the minister for foreign affairs to my note is received I will have the honor of forwarding a copy of the same to the Department.

In view of the fact that the case under consideration presents some complications, I have the honor to refer the same to the Department of State for instructions on the following points:

(1) If the Japanese Government did not recognize the legality of such marriages would I not, under the opinion of Attorney-General Hoar referred to above, be bound to consider Mrs. Ratcliffe a Japanese subject until her marriage had complied with all the requirements of Japanese law?

(2) In case her marriage was recognized by the Japanese Government would she as the wife of a British subject serving under the

United States flag follow his political status to the extent of being entitled to the temporary protection of the United States?

(3) In the event it should be construed that Mrs. Ratcliffe was entitled to the temporary protection of the United States, what would be the status of the wife of a Japanese subject serving in the United States Navy?

This last inquiry is not a speculative or hypothetical one, but respectfully made in view of the fact of information received that a number of Japanese subjects are now serving on United States men-of-war on the Asiatic Station.

I have, etc.,

RICHARD B. HUBBARD

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[Inclosure in No. 511.]

*Mr. Greathouse to Mr. Hubbard.*

KANAGAWA (YOKOHAMA), *October* 11, 1888.

SIR: I have the honor to state that Joseph Ratcliffe, a seaman on the U. S. S. *Monocacy*, has made application for the registry of his wife at this consulate-general with a view of having her placed under American protection. His statement, which I have every reason to believe is true, as he produces regular documents to prove the essential parts of it, is substantially as follows:

He was born a British subject and has never been naturalized, and enlisted, seven years ago, when under twenty-one years of age, in the naval service of the United States and has served continuously and has still some time to serve.

In March, 1887, he married a woman in Hong-Kong. His marriage papers seem to be regular, and to be made out with more than usual care, and I assume that in Hong-Kong, as well as in the United States, the marriage would be held valid. It does not appear that the Japanese representative took any part in the matter.

As I understand the instructions of the State Department, all seamen sailing on vessels under the flag of the United States are to be considered as under American protection, and in fact treated as citizens of the United States, but that, as soon as they lose their status as American seamen, are relegated to their original nationality.

Under this it seems to me that Ratcliffe, so long as he remains in the naval service, is entitled for himself and his property to American protection, but that as soon as discharged he will occupy the status of a British subject. But is his wife entitled to the same protection? Strictly speaking she is not the wife of a citizen of the United States, but only the wife of a man under American protection by reason of the fact that he is in the naval service.

Respectfully asking what I shall do in the premises,

I have, etc.,

C. R. GREATHOUSE.

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No. 738.

*Mr. Hubbard to Mr. Bayard.*

No. 512.] LEGATION OF THE UNITED STATES,
*Tokio, October* 26, 1888. (Received November 16.)

SIR: Referring to my dispatch No. 511, inquiring as to the political status of the Japanese wife of one Joseph Ratcliffe, a British subject serving in the United States Navy, I have the honor to inclose herewith a copy of a note which I have received from the Japanese minister for foreign affairs, in answer to my note inquiring to what extent the marriage of a Japanese woman to a subject or citizen of another power

would be recognized where the ceremony had been performed in a foreign country and in compliance with all the requirements of the laws of the country relating to marriage; and what would be the political status of a Japanese woman, in the light of Japanese law, who had contracted such a marriage and who returned to live with her husband in Japan.

It will be seen by the inclosure in Count Okuma's note that a Japanese before marrying in a foreign country must first receive the sanction of the Japanese consular or diplomatic representative in that country—a provision of law with which it seems the wife of Joseph Ratcliffe failed to comply.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure 1 in No. 522.—Translation.]

*Count Okuma to Mr. Hubbard.*

DEPARTMENT FOR FOREIGN AFFAIRS,
*The 23d day, the 10th month, the 21st year of Meiji* (Oct. 23, 1888).

SIR: I have the honor to acknowledge the receipt of your excellency's note No. 263 of the 16th instant, in which you express your desire to be informed as to the extent in which the marriage of a Japanese woman with the subject or citizen of another power, celebrated in a foreign country in accordance with the requirements of the laws of such country, would be recognized by the Imperial Government, in the event the Japanese wife should return with her husband to reside temporarily within the empire, and also as to the status of such woman in the light of Japanese law during her residence in Japan. The marriage of Japanese subjects with foreign subjects or citizens was first sanctioned in the 6th year of Meiji, and as decree No. 103, which was then promulgated, contains certain provisions bearing upon the subject of your inquiry, I beg to inclose herewith for your information an extract of the decree.

I avail, etc.,

COUNT OKUMA SHIGENOBU.

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[Inclosure 2 in No. 512.—Translation.]

*Extract of Decree No. 103, promulgated on the 14th day of the 3d month of the 6th year of Meiji.*

A Japanese subject who may desire to enter into marriage relation with any subject or citizen of a foreign power shall first obtain the sanction of the Imperial Government.

A Japanese woman on her marriage with the subject or citizen of a foreign power shall lose her status as a Japanese subject, but if she should desire for special reasons to regain her Japanese nationality, she may apply for the permission of the Imperial Government.

A Japanese woman on her marriage with a subject or citizen of a foreign power shall lose the right to hold immovable property within the dominion of His Imperial Majesty even though she might have possessed such property before her marriage. She shall, however, be allowed to possess money and other movable property unless expressly prohibited by the laws of the Imperial Government.

A Japanese subject who may desire to enter into marriage in a foreign country with the subject or citizen of a foreign power shall apply for the necessary sanction to his Imperial Japanese Majesty's diplomatic or consular officer residing in or near the country in which the marriage is to be celebrated, and such diplomatic or consular officer shall report the matter to the Imperial Government.

## No. 739.

### *Mr. Hubbard to Mr. Bayard.*

No. 513.] LEGATION OF THE UNITED STATES,
*Tokio, October* 25, 1888. (Received November 16.)

SIR: I have the honor to inclose herewith a communication written by the Rev. Dr. C. S. Eby, a missionary of the Methodist Episcopal Church (Canadian mission), and of deservedly high standing in his own church as well as among Christians of all denominations in the Empire, on the subject of religious liberty in Japan.

The immediate cause of the letter inclosed, which was written to the Japan Mail, was a communication which had been published by a few native Christians, complaining that the Imperial Government had failed up to the present time to *officially* recognize the Christian religion.

The subject discussed by Dr. Eby and the facts recited by him will doubtless prove of interest to the Department of State, as well as to the American Christian public at large, especially in view of the fact that some months ago statements charging the Japanese Government with illiberality towards Christianity were published in certain American religious and news journals.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure in No. 513.]

CHRISTIANS IN JAPAN.

TOKIO, *October* 9, 1888.

*To the Editor of the Japan Mail:*

SIR: When the letter of complaint appeared, written by several well-known Japanese Christians, charging the Government with discriminating against Christians, or at least not properly protecting their rights, and asking you to champion their cause, I was—and I find that all to whom I have spoken were—filled with amazement. I have waited, thinking that perhaps some facts would be forthcoming to show some reason for the appeal, facts that had thus far escaped my knowledge. But as yet none have reached me. My experience as a Christian missionary for twelve years leads me to admire the steady and steadily growing friendliness of the Government towards Christianity, coupled with a wonderful tact in gradually introducing into the country perfect religious liberty without arousing the active opposition of the old religions and of the masses who still cling to them, as certainly would have been done by a sudden and theatrical proclamation of the legality of the Christian faith. The Government, to my mind—and I believe the missionaries as a whole agree with me—has pursued, and is pursuing, the wisest possible course. Practically Christianity is free, as free in Japan as in any land on the face of the earth; for formal privilege the church can afford to wait a little.

I think most of the inconvenience to be found to-day arises either from purely local causes or from ignorance on the part of Christians of actual regulations to which they could appeal, or their want of applying to the proper authorities in case of hardship. For instance, in the matter of burying, some years ago a regulation was officially published giving relatives the right to bury with whatever service they chose. Almost the day after the regulation appeared I was in a country town when one of the members of the native church was to be buried. The official insisted on the old forms; the Buddhist priests claimed their time-honored rights; but the pastor pulled out of his pocket the paper in which the new regulations were published, and insisted on his newly-given right. The authorities and the priests had to give way to the published voice of the Central Government, and the funeral took place not only with Christian rites, but under the leadership of a foreigner. Ever since that time there has not been any difficulty whatever on that score within the bounds of our work.

There are certainly some disabilities under which the Christian Church as a corporation rests, but none that affect the practical working of any and every evangel-

istic agency; and, so far as I can see, the trend of the Government is towards a complete removal of every remnant of discrimination. It is clearly the duty of Christians to do their utmost to fit the people for this larger liberty rather than agitate for premature proclamations. My chief regret in this matter is that the letter of complaint should have gone to the West without a strong statement on the other side, for I fear it will give another pretext to the persecution-hunters, still too common there; for "here is the plain unvarnished truth," they will say, "and over the signatures of well-known Japanese, who appeal to the foreigner for help." Shall we have a new tirade from the New York Nation?

Yours, truly,

C. S. EBY.

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## No. 740.

### *Mr. Bayard to Mr. Hubbard.*

No. 256.] DEPARTMENT OF STATE,
*Washington, November* 10, 1888.

SIR: I have received your No. 511, of the 16th ultimo. You therein inquire, with reference to the application of Joseph or John Ratcliffe to have his wife registered at the consulate-general at Kanagawa, whether protection shall be granted in Japan to Japanese wives of seamen, not American citizens, serving on American vessels. The case as presented in your dispatch has had the Department's consideration.

The first question that arises is whether a British subject who has served seven years on an American national vessel, but who is not shown to have taken any steps toward naturalization, is to be regarded as an American seaman, and as such entitled to protection by the United States consular and diplomatic officers in the East. Section No. 170 of the consular regulations for 1888 goes far to settle this question. It provides that the term "American seamen" shall be held to include—

(1) Seamen, being citizens of the United States, regularly shipped in an American vessel, whether in a port of the United States or in a foreign port;

(2) Foreigners regularly shipped in an American vessel in a port of the United States;

(3) Seamen, being foreigners by birth, regularly shipped in an American vessel, whether in a port of the United States or a foreign port, who have declared their intention to become citizens of the United States and have served three years thereafter on an American merchant vessel.

It would seem from this that a foreigner, to come under this section, must have been regularly shipped in a port of the United States (as to which in the present case there is no evidence before the Department), or have declared his intention of citizenship; and even in such cases the citizenship so imputed is defined as "within the meaning of the laws relating to the discharge, relief, wages, and extra wages of seamen."

It is true that in the case of John Ross (with which your legation is familiar), a British subject, serving on an American vessel, who while on such vessel, in the harbor of Yokohama, committed a crime, was held by the Department to be subject to consular jurisdiction at Yokohama; but between consular jurisdiction over an offense committed by a person while serving on an American ship and consular jurisdiction over such a person as a permanent landsman the distinction is great. The first relates to the flag and its incidents; the second relates to a person on shore as permanently detached from the flag. The United States can sustain jurisdiction in the first case on the ground that the flag imparts nationality. They can not sustain jurisdiction in the second case,

because, except in cases in Mohammedan countries of protected foreigners, which exception is rigidly marked, the only way, outside of the flag, of obtaining national protection is by naturalization. In the present case it is not alleged that Ratcliffe has even attempted to obtain naturalization.

It is not necessary to discuss the question whether Ratcliffe's marriage at Hong-Kong in 1887 is, on the principles determined by the Department in this relation, to be regarded as valid in international law. Assuming its validity, the Department is clearly of opinion that the woman claiming on this marriage to be his wife is not entitled, as such, to the protection now claimed, even supposing he is entitled to such protection. Ratcliffe's only claim to protection would be his distinctive character as a seaman; and his wife can not be held to take this character for the purpose of protection any more than she could take it for the purpose of navigation.

I am, etc.,

T. F. BAYARD.

# LIBERIA.

## No. 741.

### *Mr. Bayard to Mr. Smith.*

[Extract.]

No. 4.] DEPARTMENT OF STATE,
*Washington, June* 4, 1888.

SIR: I transmit herewith, for preservation on the files of your legation, copy of a communication addressed directly to me, under date of February 14 last, by the Hon. E. J. Barclay, secretary of state of Liberia, claiming the intervention of the Government of the United States pursuant to article 8 of their treaty of 1862 with Liberia, to punish the indigenous African tribes which lately attacked certain American missionaries at or near Half Cavalla. A copy of my reply to Mr. Barclay, of even date herewith, is also transmitted for your files.

The original of my letter to Mr. Barclay, sealed and duly addressed, is herewith inclosed, and you will deliver the same to Mr. Barclay without comment, simply explaining that it has been received with your mail from the Department of State.

As it is probable that Mr. Barclay will take an early occasion to speak to you on the subject, it will be proper for you to familiarize yourself with the whole matter, both by perusal of the correspondence herewith sent you and by careful study of the papers on file in your legation relative to the pending claims of France in the Half Cavalla region.

You will not fail to be impressed by the circumstance, which appears both in Mr. Barclay's letter and my reply, that, notwithstanding the notorious insubordination, or perhaps, to speak more precisely, denial of Liberian jurisdiction and authority on the part of the Half Cavalla tribe and the admitted inability of the Government of the Republic to constrain these aborigines to subjection or control, the Liberian Government took upon itself to give express permission to Bishop Taylor and his coadjutors to the end that they might ascend the Cavalla River, in order to open up mission stations in the interior. This circumstance is significant, even apart from the uncertainty which seems to cloud the Liberian claim to territorial jurisdiction in the interior region back of the coast between Cape Palmas and the San Pedro River. Even if (as Mr. Barclay appears to have assumed) the Government of Liberia were the judge of the emergency requiring the intervention of the Government of the United States to protect its own citizens under article 8 of the treaty of 1862, an assumption which my reply shows to be erroneous, it could hardly be deemed within the legitimate bounds of Liberian discretion to provoke the issue by sending our citizens, or encouraging them to go, into regions inhabited by aborigines over whom no effective control is or has been exercised.

On general grounds of policy it is preferable that the consideration and discussion of the points involved should be conducted from Wash-

ington, and you will find it more convenient to limit your association with the question to reporting to this Department any phases thereof which may be brought to your attention, and awaiting instructions.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 4.]

*Mr. Barclay to Mr. Bayard.*

DEPARTMENT OF STATE,
*Monrovia, February* 14, 1888. (Received March 26.)

SIR: I have the honor by direction of the President to bring to the notice of the Government of the United States the following facts with reference to certain occurrences which have recently taken place in the district of Half Cavalla, and parts adjacent, near Cape Palmas, in this Republic, the inhabitants of which district are now, and have been for months past, in a state of armed rebellion against the authority of the Government of the Republic of Liberia.

During the month of November or December last a company of missionaries arrived at Cape Palmas from the United States, and in pursuance of a permission given by this Government to Bishop William Taylor, of the Methodist Episcopal Church of the United States, who is at present engaged in important and extensive missionary work within the Republic, commenced their journey up the Cavalla River for the purpose of beginning the work to which they were assigned by Bishop Taylor, viz, the opening of mission stations in the interior of the Republic.

At a certain distance up the said river their further progress was arrested by a tribe in sympathy with the rebellious inhabitants of Half Cavalla, and who in obedience to written orders and the instructions of emissaries from the latter tribe, made prisoners of the said missionaries, plundered them of their property to the amount of several hundreds of dollars, and placed them in imminent risk of their lives, which were only spared or saved by an unqualified submission to the lawless demands of their captors, after which, stripped of all their belongings, they were forced into their boats and compelled to return to their point of departure, Cape Palmas.

This unfortunate occurrence, in the opinion of the President, amounts to an emergency calling for the intervention or aid of the United States under the eighth article of the treaty, in order that the perpetrators of this cruel action upon the persons of unoffending missionaries may be effectually punished for their misdeeds. The Government of the Republic of Liberia, while proceeding to do all in its power to suppress the outbreak at Half Cavalla, of which these outrages are the undoubted consequences, is not able unaided to bring these offenders to justice for this violent and unprovoked attack upon the persons and property of peaceful American citizens.

I inclose herewith for the information of the Government of the United States a copy of a proclamation recently issued by my Government as an initiatory step towards its active efforts to suppress the above-mentioned outbreak, and to disintegrate the combination that had been formed against its authority. I have the honor to inclose also copy of a dispatch of the 8th of June last, which this Department addressed to Mr. Taylor in response to a request emanating from the officer preceding him in the United States legation in this city, who desired to be informed as to the particulars of the Half Cavalla affair, so that said information might be duly communicated to his Government.

I have, etc.,

E. J. BARCLAY.

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[Inclosure 2 in No. 4.]

*Mr. Bayard to Mr. Barclay.*

DEPARTMENT OF STATE,
*Washington, June* 4, 1888.

SIR: I have the honor to acknowledge the receipt of your note of February 14, last. In this communication you state that you are directed by the President of Liberia to bring to the attention of the Government of the United States the following facts:

In December last a band of American missionaries arrived at Cape Palmas, in pursuance of permission given by the Government of Liberia to Bishop William Taylor, of the Methodist Episcopal Church, with the intention of ascending the Cavalla River in order to open up mission stations in the interior. On proceeding a "certain distance" up that river, their further progress was barred by one of the aboriginal savage tribes acting in sympathy with and, as you state, under the order of the Half Cavalla tribe, which is now, and for some time past has been, in rebellion against

the authority of the Government of Liberia. The missionaries were made prisoners, plundered of their property, and then forced to their boats and to descend the river to their point of departure, Cape Palmas.

You then proceed as follows: "This unfortunate occurrence, in the opinion of the President, amounts to an emergency calling for the intervention or aid of the United States, under the eighth article of the treaty, in order that the perpetrators of this cruel action upon the persons of unoffending missionaries may be effectually punished for their misdeeds. The Government of the Republic of Liberia, while proceeding to do all in its power to suppress the outbreak at Half Cavalla, of which these outrages are the undoubted consequences, is not able to bring these offenders to justice for their violent and unprovoked attack upon the persons and property of peaceful American citizens."

The Department has carefully considered the facts stated in your note and the grounds of the requisition made on this Government to employ its naval and military forces to punish the tribe which plundered the American missionaries.

Article VIII of the treaty of 1862 with Liberia provides as follows: "Should any United States citizens suffer loss in person or property from violence by the aboriginal inhabitants, and the Government of the Republic of Liberia should not be able to bring the aggressor to justice, the United States Government engages, a requisition having been first made therefor by the Liberian Government, to lend such aid as may be required."

This provision did not invest the Government of Liberia with the right to originate its claim to call upon the United States for such aid "as might be required" to overawe the hostile force of the aboriginal inhabitants. The right and sole discretion to decide whether a case exists, which is to put this article of the treaty in motion, resides in the United States. Therefore, when a citizen of the United States shall present a proper case to his own Government it will then be for it to decide whether it will present the case to the Government of Liberia; and if it shall then be informed that Liberia is powerless to execute the demand so made upon her by the United States, then, and in such event, Liberia may "make requisition" upon the United States "to lend such aid as may be required" to effect the object demanded by the United States.

The locality of the outrage is also a matter of controlling importance. It has been generally understood that the territory of Liberia extended as far south as the San Pedro River, although that claim has been questioned by the Government of France. But the interior boundary line, especially of that portion of the Republic lying between Cape Palmas and the San Pedro, has always been vague and uncertain, and the actual authority exercised by the Republic over that territory even more so. The original deeds to the colonists who formed the Liberian State of Maryland do not define the interior limits so that they can now be recognized on the map.

In the case now presented the missionaries are said to have advanced "a certain distance up the said river" (Cavalla), but how far in the interior the Department has at present no means of knowing; and as the provision of the Article cited can only apply to "the aboriginal inhabitants" dwelling within the bounds of the Republic, the Government of the United States needs further light on this point.

Regretting the delay in answering your note, which has only been due to the time needed for the consideration of the important question raised by it,

I have, etc.,

T. F. BAYARD.

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## No. 742.

### *Mr. Rives to Mr. Smith.*

No. 6.] DEPARTMENT OF STATE,
*Washington, June*, 23, 1888.

SIR: I have been afforded an opportunity to read a letter recently addressed to Dr. Oliver Wendell Holmes, of Boston, by Mrs. (or Miss) Mary B. Meriam, an American missionary residing at Cape Mount, in which reference is made to a strong feeling of race prejudice alleged to be prevalent among the Liberian colonists, and which, it is said, is most prejudicial to the interests of the few white persons resident in that Republic. It is asserted that no white person going to the vicinity of Cape Mount would be sure of safety; that they can get no justice done them in case of well-grounded complaints, and that they are exposed to insults and violence. It is said that this inhospitable treatment is not

experienced from the native Africans, "who respect and like the white people."

The Department does not, as a rule, make vague and general statements of this character the occasion of international complaint, and seldom feels called upon to instruct its agents abroad in respect thereof, preferring to act upon specific cases of complaint.

But in regard to this allegation of an unfortunate race prejudice in Liberia, confirmatory of intimations in the same sense which had previously reached the Department through more or less direct channels, and in view of the slowness of communication with Monrovia and between Monrovia and outlying points on the Liberian coast and in the interior, which might make delay in the ascertainment of facts inexpedient and perhaps dangerous, it seems proper to say for your general guidance that nothing could be more contrary to the true interests of Liberia or more sincerely to be deprecated than any exhibitions of hostility based upon color. Contrary to the principles of equal rights, upon which all good self-government is founded among men, it is furthermore expressly contrary to the constitutional precepts and statutory enactments of the country from which the settlement of Liberia has been mainly effected. It is trusted that in the event of any just complaint of wrong in this regard being brought to your attention you will be earnestly outspoken in favor of the equal and humane treatment of whites in Liberian jurisdiction.

I am, etc., G. L. RIVES,
*Acting Secretary.*

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## CORRESPONDENCE WITH THE MINISTER OF FOREIGN AFFAIRS FOR LIBERIA.

### No. 743.

*Mr. Barclay to Mr. Bayard.*

DEPARTMENT OF STATE,
*Monrovia, October* 4, 1887. (Received November 21.)

SIR: The Hon. Charles H. J. Taylor, minister resident and consul-general of the United States to Liberia, having given official notice to this department under date of the 26th ultimo of his immediate departure for the United States, I have the honor, by direction of the President, to address you again on the subject of the claims advanced by France to certain portions of the territories of the Republic embraced between Cape Palmas and the San Pedro River, and to inclose for your information copy of a dispatch, with an inclosure, received from our chargé d'affaires in Paris, dated 8th September last, in which he informs this Department in a letter lately received from the French ministry of foreign affairs that the minister refuses to settle the matter in question with the minister of the United States, on the ground that our chargé d'affaires being the only agent acknowledged to represent the Republic of Liberia in France, the minister of the United States can not act for our Government.

Mr. Carrance further informs us that he has interviewed Mr. McLane on the subject, and, while acknowledging that the United States take the utmost interest in the matter, intimates that it is necessary that our Government send him immediately "a special power to settle the question, and full orders necessary to come to this conclusion," etc.

Referring to the latter portion of the third paragraph of your esteemed dispatch of the 14th October, 1886, with relation to that "little natural fear on Mr. Carrance's part that you (we) might credit in the wrong quarter the good result of his official efforts and services," I would remark that that natural fear of Mr. Carrance alluded to in that communication seems to be greatly increased, since he has persistently endeavored to have our Government ignore the reasonable intervention of our next (best) friend, and to place the solution of the matter entirely in his hands, notwithstanding the admission made to this department two or three years ago "that he was on *best* terms of friendship with all the French Government men."

In this connection I am directed by the President to inform you that so great is the confidence which he feels in the kind exertions of the Government of the United States on behalf of Liberia in this matter, that if the conduct of Mr. Carrance should constitute an obstacle in the way of an amicable settlement of the matter, he would feel no reluctance whatever to remove that obstacle, and leave the question to be finally settled between the French Government and that of the United States, acting on behalf of the Republic of Liberia.

Soliciting an expression from you as to the correctness of the information furnished by Mr. Carrance,

I have the honor, etc.,

E. J. BARCLAY.

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[Inclosure 1.]

*Mr. Carrance to Mr. Barclay.*

PARIS, *September* 8, 1887.

EXCELLENCY: I have the honor to inclose herein copy of a letter which Mr. Flourens, minister of foreign affairs, has addressed me concerning the claim the minister of the United States in Paris has been commissioned to put forward on your behalf.

As your excellency will read, the minister of foreign affairs refuses to settle the matter with the minister of the United States, stating that, as I am the only agent acknowledged to represent the Republic of Liberia in France, this agent can not act for your Government.

My only wish being the welfare of Liberia, I went to see Mr. McLane, minister of the United States, to let him know of the letter I had just received from Mr. Flourens, as this gentleman requires me only to interfere in the matter.

My opinion is that we will agree together and will come to a conclusion satisfactory to Liberia, for the United States take the utmost interest in the matter, but it is necessary that your excellency should send me immediately, and by wire if possible, a special power to settle the question and full orders necessary to come to this conclusion.

Your excellency knows me well enough to be aware that in every point I take and uphold the interests of Liberia, which are as dear to me as my own, and in this matter I feel the more confident that I shall be backed up by the minister of the United States, although I shall have to settle alone with the French Government.

I hope we will come to a satisfactory solution, but so as to act quickly it is necessary that your excellency should send me by the shortest way the full necessary orders and power.

In this expectation, I have, etc.,

LEOPOLD CARRANCE.

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[Inclosure 2.—Translation.]

*Mr. Flourens to Mr. Carrance.*

PARIS, *August* 27, 1887.

MONSIEUR: I have had occasion to inform you, in the month of July of last year, of a proposal made to my department by the United States minister at Paris, in favor of the State of Liberia, in regard to the incident caused by the calling of a French man-of-war at Beriby.

Mr. McLane, under orders from his Government, has just addressed to me a new communication, in which, always taking into consideration the interests of the Republic of Liberia, he proposes to us to determine precisely the frontier line between the eastern provinces of this state and the neighboring French possessions.

Though we are never disposed to reject the idea of a natural boundary (*délimitation de nature*) to prevent any difficulty with a country with whom we have sentiments of sympathy, it seems difficult to receive overtures which have not an official character, and that have not yet been *regularly* addressed by your agency.

I will be, therefore, very much obliged to you to inform me if you have been charged by the Government which you represent in France to transmit to us propositions tending to the determination of the common frontier, and I await your reply before having an understanding with the minister of marine upon the subject of the measures it might be proper to take, with a view of regulating, if necessary, the question which the minister of the United States has thought it his duty to call to my attention.

Receive, etc., FLOURENS.

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## No. 744.

### *Mr. Bayard to Mr. Barclay.*

DEPARTMENT OF STATE,
*Washington, December* 9, 1887.

SIR: I have the honor to acknowledge the receipt of your letter of October 4 last, relative to the friendly counsels of the United States minister at Paris in endeavoring to bring about a settlement of the questions between Liberia and France touching the Beriby district.

In demonstration of its uniform attitude of friendliness toward Liberia, the Government of the United States has frequently interposed its good offices to procure the harmonious and honorable adjustment of difficulties between Liberia and foreign states. The effectiveness of such endeavors depends on the acceptability to both parties of the kindly intermediation of the United States, and this in turn upon the disinterestedness of the tender. The representatives of the United States speak in such cases for the Government of the United States, and not as the agent or advocate of one of the conflicting parties. This has been the course pursued by Minister McLane at Paris, and which he is instructed to continue. It has not been supposed by the Government of the United States that the Government of France desires or expects that the representative of the United States at Paris shall be empowered as the agent of Liberia to settle the question. That would be to substitute representation for mediation, which would be contrary to the established policy of the United States.

The true function of the United States minister in France is to act, so far as may be admissible, as a conciliatory medium between the agent of Liberia and the French Government. In this sense the presence of a duly accredited representative of Liberia at Paris is no obstacle; it is rather indispensable to the accomplishment of the ends contemplated in the instructions to Mr. McLane.

It is of course quite beyond my province to express an opinion as to the personal qualifications of the present representative of Liberia in Paris. All I can say is, that if the Liberian Government should recall Mr. Carrance, it would not be practicable to confer on Mr. McLane authority or power to act as the diplomatic agent of Liberia. But short of that, his best efforts will always be available to maintain a good understanding between Liberia and France.

I am, etc. T. F. BAYARD.

# MEXICO.

## No. 745.

*Mr. Connery to Mr. Bayard.*

No. 239.] LEGATION OF THE UNITED STATES,
*Mexico, October* 4, 1887. (Received October 12.)

SIR: A case which is attracting some attention here at present is the murder of an American citizen named Leon Baldwin, superintendent or manager of the Valenciana mines at or near a place called Ventanas, in the State of Durango. I deem it my duty to report the case for your consideration, though I do not feel authorized to initiate proceedings with a view to securing the punishment of the assassins, or of obtaining compensation for the widow of the unfortunate victim.

About the middle of last August Mr. Baldwin, while making a tour of a group of mines belonging to a number of American capitalists, was fired upon by some parties concealed behind rocks close by the Ventanas mines. He was badly wounded, but managed to escape into a tunnel near by, and soon after was informed by the foreman of the mines that the assassins threatened to put to death several of the unarmed workmen unless they brought forth the superintendent. Mr. Baldwin directed the foreman to go out and endeavor to compromise with the bandits, authorizing him to promise the payment of any reasonable sum of money by the company provided they would desist from further hostilities, and withdraw peacefully. This the foreman did, and after a parley with the ruffians, reported to Mr. Baldwin that his offer was accepted. Not to go into unnecessary details in this preliminary statement of the case, I will merely add now that Mr. Baldwin, desiring to save the lives of his men, and believing that the prime object of the assassins was to secure money, went out of the tunnel and confronted his assailants. He was thereupon placed upon a mule and led a short distance away. A few minutes later on five shots were heard and some of the miners rushing down the road in the direction of the noise, found Mr. Baldwin lying dead with a bullet in his brain. The assassins had disappeared. This is, in brief, the story of the outrage as related to me.

If I may believe other statements made, this is only the last of a series of outrages in the same locality, and by the same organized band of assassins commanded by a notorious outlaw named Eraclio Bernal. Two or three other superintendents of the same mine, also Americans, have lost their lives in a similar manner, and it is said that the governor of Durango was notified in each case and warned that efficient measures should be taken to protect the lives and property of the people in the employment of this mining company.

I have heard much more about the doings of the bandits of Durango, but I deem it prudent, at present, to confine myself to this simple narration of what have been represented to me as the undoubted facts in the case of the unfortunate Leon Baldwin.

My object in presenting the case is to ask for instructions. Do you wish me to cause a careful investigation to be made, and then lay the case before the Mexican Government? I shall await your instructions.

I am, etc.,

THOMAS B. CONNERY.

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No. 746.

*Mr. Bayard to Mr. Connery.*

[Extract.]

No. 189.] DEPARTMENT OF STATE,
*Washington, October* 11, 1887.

SIR: I have to acknowledge the receipt of your No. 239, of October 4, 1887, in which you inform me of the murder, by bandits, in the State of Durango, of Leon Baldwin, a citizen of the United States, at the time of his death manager of the Valenciana mines.

As you are aware, diplomatic intervention for satisfaction or indemnity is a function of great delicacy, which should only be exercised upon adequate proof, making out a *prima facie* case.

In order to secure such proof a circular has been prepared in the Department, a copy of which is inclosed herewith and which will show you in general terms what is requisite in cases of this class to enable the Department to intervene.

In the present instance the first step to be taken by the Department would be to call upon the Mexican Government to institute an investigation as to the murder in question and to inform the Department as to the results of such investigation. But even this step can not be taken until an affidavit or affidavits are laid before the Department enabling it to speak with precision and on responsible information.

You will therefore take such steps as will cause papers of this character to be laid before the Department. You will also see that these are accompanied by proof of the citizenship of Mr. Baldwin.

I am, etc.,

T. F. BAYARD.

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No. 747.

*Mr. Connery to Mr. Bayard.*

No. 251.] LEGATION OF THE UNITED STATES,
*Mexico, October* 19, 1887. (Received October 29.)

SIR: In my No. 239, dated October 4 I brought to your attention the facts of the murder of Mr. Leon Baldwin, at or near a place called Ventanas, in the State of Durango. Since then I have noticed by some of the California papers that Congressman Morrow, of that State, has also presented the case to the State Department, and that you have answered him in a letter, promising to give it your earnest consideration when the facts are duly authenticated.

To-day I had what I should call an unofficial interview with Mr. Mariscal about the matter. I was careful to impress upon him that my call was entirely private, that I had received no instructions from

Washington about the case; therefore that any views I might express must not be given an official importance. I think it my duty to report substantially our conversation.

I opened the interview by remarking that the Baldwin assassination had created a great deal of excitement in the United States, and that the case appeared to be one well calculated to breed trouble. I asked him had he noticed the tone of the California press.

He answered "Yes;" adding that he had also noticed the proceedings of Congressman Morrow and others. Mr. Morrow, he said, appears to treat the matter merely as a politician, desirous of making a sensation and of profiting politically by stiring up American feeling against Mexico.

I observed that he made a mistake in taking that view of Mr. Morrow's proceedings.

Mr. Mariscal asked then how was the charge to be explained that Baldwin had been murdered merely because he was an American. The real facts, said Mr. Mariscal, contradict that charge. He had caused a thorough investigation to be made, and the result showed that before the police or other authorities could act the people of the town or village nearest the scene of the murder had armed themselves with knives and other rude weapons, pursued the assassins, and, surprising them in the height of a drunken orgy, put four of their number to death on the spot, and wounded so badly the fifth that, though he escaped from the hands of the enraged populace, he died soon after.

"So that," exclaimed Mr. Mariscal, "they have all—their number was five—been punished with death. What more can the Government do? If the cause of Baldwin's murder was hatred merely of the Americans by the Mexicans, it is curious that the inhabitants of a Mexican town were first to take arms and avenge the assassination."

I answered that that part of the tragedy had a favorable appearance, but that in the absence of instructions I could not express an opinion. I was very glad, however, I said, to learn that the Mexican Government had taken the initiative in investigating and prosecuting, instead of awaiting a demand from my Government. The energetic course adopted by the Mexican Government in the Nogales case had produced a most favorable impression in the United States, and the application of the same energy and promptness in this and other cases must bear good fruit. It was an easy, practical, common-sense way of avoiding irritating controversies.

Mr. Mariscal then said that, foreseeing that the Baldwin case might lead to some demand from my Government, he had prepared a thorough statement of the results of the investigation, which in a day or two he intended to send to the Mexican legation at Washington for such use as might be found advisable.

I told him then that he had anticipated the object of my unofficial interview with him by thus taking the initiative; that as a true, sincere friend of Mexico, I considered that course well calculated to smooth the way to easy settlement of all troublesome questions.

He thanked me, and added that his Government was always most anxious to adopt the mode best adapted to preserve the most amicable relations with the United States.

Again he alluded to Congressman Morrow's connection with the case, saying that the expressions used by that gentleman were not the kind calculated to promote good feeling. In a vague sort of way he also referred to the talk in the press of a demand for indemnity, saying noth-

ing, however, to indicate how his Government would regard such a claim.

From all the above you will observe that, according to Mr. Mariscal's statement, all the five assassins of Mr. Baldwin have been punished with death by the people, without waiting for their Government to give the signal. Whether the actual assassins were the only persons to blame in the case, whether the Federal as well as the State authorities of Durango were at fault in not heeding the alleged warning of threatened trouble, are points that I shall not attempt to discuss.

This one suggestion I will take the liberty of making: If, as is foreshadowed by Congressman Morrow and the family of the murdered Baldwin, a demand for indemnity is to be made, the complainant should be prepared to prove by competent evidence that both the Federal and the Durango authorities had been warned and had neglected to take adequate measures to protect the lives and property of the Americans engaged in mining operations at Ventanas.

I am, etc.,

THOMAS B. CONNERY.

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No. 748.

*Mr. Connery to Mr. Bayard.*

[Extract.]

No. 255.] LEGATION OF THE UNITED STATES,
*Mexico, October* 26, 1887. (Received November 3.)

SIR: Shortly after mailing you my recent dispatch concerning the murder of Mr. Leon Baldwin, Mr. Daniel Turner, his brother-in law, brought me a copy of the affidavit of Mr. W. W. Carroll, of Durango, sworn to before the consul of Germany, in the absence of our consular representative, Mr. C. B. Jones.

I gave Mr. Turner a copy of your rules for "Claims against foreign governments," and advised him to direct Mr. Carroll to comply therewith as fully as possible.

If the intention was to prove negligence on the part of the authorities, then I said they should lay the foundation by gathering all possible evidence showing that the authorities had received timely warning and had sent no armed protection until too late to save Mr. Baldwin's life.

As I noticed a conflict of statements between Mr. Mariscal's explanation to me and Mr. Carroll's sworn declaration forwarded to you, about the number and the death of the assassins, I suggested to Mr. Turner that proof should be obtained that there were really six bandits and not five engaged in the murder, and that one of these had escaped and still lived. Proof on this point, I told him, should not rest solely on the testimony of Mr. Carroll, if corroborative evidence could be procured.

So, on the point made by Mr. Mariscal that, in fact, the people of a neighboring town or village had avenged Mr. Baldwin's death without waiting for the Government's permission, Mr. Carroll's affidavit conflicts, for he swears that this killing of the bandits was caused by popular indignation aroused by the robbery of a Mexican merchant, the kidnapping of his son, and the abduction of one of their judges.

I do not inclose a copy of Mr. Carroll's affidavit, because it has already been forwarded to you from Durango by that gentleman.

I am, etc.,

THOMAS B. CONNERY.

## No. 749.

### *Mr. Bayard to Mr. Connery.*

No. 203.] DEPARTMENT OF STATE,
*Washington, November* 7, 1887.

SIR: I inclose for your information a copy of a letter from the secretary of the Pacific Mail Steam ship Company, dated the 31st ultimo, to the effect that the agent of the Marquis de Campo was on his way to Mexico to make a contract with that Government for the Spanish Central American line of steamers between San Francisco and Panama, and to obtain, if possible, a differential duty of 5 per cent. in favor of that line.

In this connection attention is invited to the Department's Nos. 145 and 147 of August 3 and 12, 1887, concerning the complaint of this Government against the States of Central America for having discriminated unfavorably against American commercial interests through their contracts with the Spanish line of steamers spoken of.

Recently, however, in view of the urgent remonstrances of Mr. Henry C. Hall, United States minister at Guatemala City, against this unjust action on the part of those States, there is a prospect of a favorable result, and that our vessels in those ports will be granted the same rebate as may be extended to others; and it would be much to be regretted if this Government were to receive a less measure of friendly and equitable treatment in this regard from Mexico than from the Central American States.

You will take occasion to present the friendly remonstrance of this Government to the minister for foreign affairs of Mexico against any measure which discriminates against our commercial interests in this regard.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 203.]

### *Mr. Lane to Mr. Bayard.*

NEW YORK, *October* 31, 1887.

SIR: I have the honor to advise that under date of October 5 our special agent at Guatemala City, Mr. J. H. Leverich, writes us as follows:

"I beg to advise you that Mr. Irygoyen (special agent of the Marquis de Campo) went to San Francisco, per steam-ship *Guatemala*, en route for Mexico, to make a contract with that Government for the Campo Line and to obtain, if possible, a differential duty of 5 per cent. in favor of that line."

Bearing in mind the satisfactory results from the action which the Department has taken, through Minister Hall, in practically causing the Republics of Guatemala and Salvador to withdraw the discriminations against American bottoms, in the shape of differential duties previously granted to the Marquis de Campo, we beg to call the attention of the Department to the overtures which our special agent now advises are to be made to the Government of Mexico, and have no doubt that, in view of the friendly feeling existing between the two Republics, our Government will have no difficulty in securing from the Mexican Government as favorable action towards this company's steamers, as has already resulted from the stand which the Department has taken in connection with these differential duties toward the Central American Republics.

I have, etc.,

W. W. LANE,
*Secretary.*

No. 750.

*Mr. Bayard to Mr. Connery.*

No. 207.] DEPARTMENT OF STATE,
*Washington, November* 9, 1887.

SIR: I have received your No. 255 of the 26th ultimo, in regard to the murder of Leon Baldwin.

Your course in not presenting the case to the Mexican Government until instructed to do so by this Department was proper. Cases may of course arise in which urgent circumstances might require a minister to apply to the Government to which he is accredited for some immediate action to prevent a wrong from being accomplished.

In the case of Mr. Baldwin, however, the question was simply one of asking reparation for injuries alleged already to have been done, and it was proper to await the instructions of the Department before presenting that claim.

In connection with this murder, I herewith inclose copies of two notes from Mr. Matias Romero, the minister of Mexico here, dated the 29th ultimo and 2d instant.* In the former it will be observed Mr. Romero states that his Government made prompt investigation of the matter and that the governor of Durango reports the killing by the inhabitants of all the assassins. The latter transmits an extract from the Diario del Hogar of Mexico City, under date of the 1st ultimo, containing a report as to the condition of affairs in Durango arising in consequence of the acts of the highwaymen under the lead of Eraclio Bernal. I purposely omit the printed extract referred to by Mr. Romero for the reason that the newspaper in which it appears is no doubt readily accessible to you.

I am, etc.,

T. F. BAYARD.

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No. 751.

*Mr. Connery to Mr. Bayard.*

No. 270.] LEGATION OF THE UNITED STATES,
*Mexico, November* 9, 1887. (Received November 18.)

SIR: I have the honor to transmit herewith a translated copy of a note this day received from Mr. Mariscal, in reply to one from this legation, dated August 29, 1887, respecting the complaint of Messrs. Alexandre & Sons, regarding the rebate of duties accorded to the Trans-Atlantic Mail Steam-ship Company.

You will observe that Mr. Mariscal repeats the arguments contained in his former notes and concludes by expressing regret and surprise that the United States Government, in place of rejecting "an unfounded claim," as he terms it, continues to foster it.

I am, etc.,

THOMAS B. CONNERY.

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* For note of October 29, see Doc. No. 831, *post*, p. 1248. For note of November 2, see Doc. No. 834 *post*, page 1250.

[Inclosure in No. 270.—Translation.]

*Mr. Mariscal to Mr. Connery.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, November* 7, 1887.

MR. CHARGÉ D'AFFAIRES: Your legation, in a note dated June 17, of the current year, was pleased to state that the Honorable Mr. Bayard did not regard as satisfactory the explanations of the department of public works regarding the matter of the complaint of Messrs. Alexandre & Sons, concerning the rebate of 2 per cent. from import duties granted to the Spanish Trans-Atlantic Steam-ship Company.

The explanations above referred to had been furnished to your legation on the 11th of last May. It was then said that when the concession in question was made several complaints arose, though informally, from nations which had in their respective treaties with Mexico the most favored nation clause, and that the explanation then sufficed that the exemption was granted to a private company in lieu of subvention, and not to the flag of Spain, thus quieting said complaints.

To the above was added that, as the legation well knows, Mexico is not held by express conditions to treat the United States as a most favored nation—for there is no general treaty, in fact, between the two countries—and that though Mexico yields that treatment to the United States *de facto*, and per force of peculiarly friendly relations, under international usage Messrs. Alexandre & Sons have even less ground for complaint than English or German companies would have in like circumstances.

That note concluded calling attention to the justice of the statement made by the department of public works to the effect that Messrs. Alexandre & Sons themselves, who for fifteen years were subventioned by the Government of Mexico, should be the last to ignore Mexico's right to concede to others the advantages and franchises it may deem necessary to the progress and promotion of its maritime commerce.

To this the said note from your legation, of June 17, replied that the Government of the United States had not desired most-favored-nation treatment for American vessels in Mexican ports because no stipulation for such treatment is embraced in the treaties binding the two countries; that neither had objection been made to the grant of a subvention to that Spanish line in lieu of special services it had engaged to perform, and that the complaint of Messrs. Alexandre & Sons is based upon the fact that the rebate of 2 per cent. of the customs is, in fact, granted to those who ship goods by the vessels of the said Spanish line.

In view of those allegations it was clearly evident that Mr. Bayard had not been able to consider the matter with due calmness and reflection. This department trusted that after re-examining the complaint presented he would recognize therein an attempt to obtain from the Government of Mexico by the *via diplomatica* what could not in any wise have been required.

Mr. Chargé d'Affaires, I believe that no one can call in question the right of the Government of this Republic to grant to private companies for special services they engage to perform subventions of any character the same may judge to be favorable to its interests, provided always that they do not infringe upon the stipulations of treaties now in force.

By virtue of its contract, the Spanish Transatlantic Company realizes a cash subvention by a rebate of 2 per cent. from customs duties upon goods imported by its steamers in the ports of Mexico. If the said company yields this discount of 2 per cent. to its shippers, it does so undoubtedly for the purpose of encouraging traffic, and no one may censure the company for doing so. If other companies suffer through the competition thus created, let circumstances be blamed and not the Government of Mexico, which is not bound to give heed to private enterprises and can not assume responsibility for losses such companies may sustain when, as in the present case, no compromise trammels its freedom of action. None in effect, for even under the hypothesis that the privilege granted by Mexico is granted, not to the Spanish Steam-ship Company, but to shippers by that line, as your Government sustains in its said note, no stipulation could be urged as between Mexico and the United States of America, by virtue of which Messrs. Alexandre & Sons could have reason for complaint concerning aught of detriment occasioned.

Upon the receipt of the note of August 29th last from that legation, relative to this matter, it pained me to see that the United States Government, in place of rejecting the unfounded claim of those gentlemen, which it should have without question done, in view of the impartial explanations rendered, insisted, on the contrary, in fostering that claim, giving as a reason that the interests of the parties had suffered and continued to suffer. This, while probably true, does not prove the violation of any right appertaining to them nor to any one else.

I would therefore beg of you, Mr. Chargé de Affaires, to be pleased to transmit to your Government the contents of this note, adding that the Government of Mexico hopes that the Department of State in Washington will restudy this matter, and will then become convinced that the claim to which I refer is really unsustainable.

I renew, etc., IGNO. MARISCAL.

## No. 752.

### *Mr. Connery to Mr. Bayard.*

No. 276.] LEGATION OF THE UNITED STATES,
*Mexico, November* 21, 1887. (Received November 29.)

SIR: Referring to your No. 203, of date November 7, 1887, relative to the supposed mission of an agent of the Marquis de Campo's steamship line, I have the honor to report that to-day I had an interview with Mr. Mariscal, the minister of foreign relations, and explained to him your wishes on the subject.

Mr. Mariscal said that no agent of Marquis de Campo had made his appearance in Mexico. He had heard of the matter before, however, unofficially, but your message through me was the first official notification he had received. As to the wish expressed by you that the United States would receive from Mexico at least as favorable treatment as from the Central American States, Mr. Mariscal observed that he could only repeat what he had written in his late note to me under date of November 7, relative to the complaint of Messrs. Alexandre & Sons, namely, that Mexico is not held by treaty stipulations to negotiate with the United States as a most favored nation; but that nevertheless she does so treat the United States, except in rare causes when, from some special reasons, she feels compelled to do otherwise.

I asked him if he could not give me some more satisfactory assurance as to the treatment of the Pacific Mail steamers in case of an allowance of a 5 per cent. rebate to the Marquis de Campo line. His answer was promptly though courteously in the negative. He could give no other assurance at present.

I do not pretend to repeat Mr. Mariscal's exact words, but their meaning was this:

That in the case of the rebate allowed to the Spanish Transatlantic Steam ship Company, of which the Alexandres complained, both Germany and England had made *quasi* protests, but that they had to be satisfied with his explanation that the exemption was not granted to the flag of Spain but to a private company. England and Germany, in their respective treaties with Mexico, had the favored-nation clause and had more real ground for complaint than the United States, which had no stipulation of the kind with Mexico and therefore no claim to be treated as a most favored nation. No one could question the right of his Government to concede subventions to private companies in any form it saw fit, so long as treaty stipulations were not violated.

I am, etc.,

THOMAS B. CONNERY.

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## No. 753.

### *Mr. Bayard to Mr. Connery.*

No. 215.] DEPARTMENT OF STATE,
*Washington, November* 22, 1887.

SIR: I inclose for your information copies* of correspondence between the Mexican minister here and this Department on the subject of a quarantine of ninety days imposed by the governor of Arizona

* See Docs. Nos. 831, 836, and 837, *post*, pp. 1248 and 1252.

on Mexican cattle, in which the minister alludes to the resolution of the Senate of the 5th May, 1886; referring you in this connection to the instructions of this Department, Nos. 193, 196, and 200, of 28th, 29th May and 14th of June, 1886, and other correspondence on the subject on the files of your legation. I shall be glad to have any facts of value from you which may serve to throw any light on the quarantine difficulty.

I am, etc., T. F. BAYARD.

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No. 754.

*Mr. Bayard to Mr. Connery.*

No. 220.] DEPARTMENT OF STATE,
*Washington, December* 3, 1887.

SIR: I inclose for your information a copy of a dispatch from William Heimké, esq., vice-consul at Chihuahua, Mexico, No. 15, of October 29 last, reporting the release, after an incarceration of nearly three years, of Henry Brudigam (the alleged murderer of one Domingo Steiner), the courts having found him "not guilty."

An expression of the Department's satisfaction that justice has at last been done to Mr. Brudigam has been made to the vice-consul, coupled with the further observation that it was difficult to explain or justify the tardy action of simple justice in this case. Consideration of any claim, however, which Mr. Brudigam may prefer against Mexico in consequence of his long imprisonment will necessarily be deferred until its presentation to the Department, in order that the facts and allegations may be carefully weighed.

I am, etc., T. F. BAYARD.

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[Inclosure in No. 220.]

*Mr. Heimké to Mr. Porter.*

No. 15.] UNITED STATES CONSULATE,
*Chihuahua, October* 29, 1887.

SIR: I have the honor to report that after an incarceration in the *cárcel pública* here for a period of close upon three years of Mr. Henry Brudigam, an American citizen, for the alleged murder of one Domingo Steiner, a former jeweler of Chihuahua, he has been released from his imprisonment, the courts having found him "not guilty." Mr. Brudigam informs me that he will leave in a few days for the United States, where he intends to employ counsel for the prosecution of an indemnity claim for his long and unjust imprisonment here.

I have, etc..

WM. HEIMKÉ.

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No. 755.

*Mr. Bayard to Mr. Connery.*

No. 224.] DEPARTMENT OF STATE,
*Washington, December* 7, 1887.

SIR: I inclose for your information, in connection with my No. 215, of the 26th ultimo, a copy of a letter from the Acting Secretary of the Interior, dated the 26th ultimo, in regard to the proclamation of the

governor of Arizona establishing a quarantine for cattle brought into Arizona from Mexico, to which the Mexican minister here in his note of October 22 last objected.

It will be observed that a doubt having arisen as to the constitutionality of the law under which the proclamation was issued, the quarantine has been raised.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 224.]

*Mr. Muldrow to Mr. Bayard.*

DEPARTMENT OF THE INTERIOR,
*Washington, November* 26, 1887.

SIR: Acknowledging the receipt of your letter of the 26th ultimo, inclosing copy of a communication from the Mexican minister objecting to a proclamation of the governor of Arizona establishing a quarantine for cattle brought into the Territory from Mexico, I have the honor to state that in pursuance of your request the correspondence was referred to the governor for report.

A copy of his reply, under date of the 16th instant, is herewith inclosed, from which it appears that the proclamation was issued in obedience to an act of the Territorial assembly, but that a doubt having arisen as to the constitutionality of the statute the quarantine has been raised.

Very respectfully,

H. L. MULDROW,
*Acting Secretary.*

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[Inclosure 2 in No. 224.]

*Mr. Zulick to Mr. Vilas.*

EXECUTIVE DEPARTMENT, OFFICE OF THE GOVERNOR,
*Prescott, Arizona, November* 16, 1887.

SIR: I have the honor to acknowledge receipt of your communication of 1st instant, with inclosures of copy of letter from the Secretary of State and translated copy of note from Mr. Matias Romero, minister of Mexico, relative to and protesting against the quarantine proclamation issued on the 18th of August last. In compliance with the suggestion of the Secretary of State, I respectfully report:

That the fourteenth legislative assembly of Arizona enacted a law designated the "stock and sanitary law," which was approved March 10, 1887.

By its provisions there was created a sanitary commission composed of five members, whose duties were to protect the health of the domestic animals of the Territory from all contagious or infectious diseases of a malignant character, and for this purpose it is authorized and empowered to establish, maintain, and enforce such quarantine, sanitary and other regulations as it may deem proper, and after prescribing quarantine, etc., it shall notify the governor thereof, who shall issue his proclamation, etc.

In accordance with the provisions of this law, and after due notification by the Territorial sanitary commission of their establishing a quarantine against Mexico, I issued, as directed by statutes, the quarantine proclamation complained of by the Mexican authorities. By this official act I only obeyed the direction of Territorial law referred to.

The Territorial legislature, by the enactment of this law, undoubtedly intended to exercise a police power for the protection of this important and growing industry of the Territory.

Since the publication of this proclamation the powers of the Territorial legislature in this connection have been made the subject of close examination, resulting in the advisement of the commission that the powers granted them under this section of the law conflict with the constitutional grants to Congress over international and interstate commerce, and, consequently, are null and void. The quarantine complained of, for the legal reasons assigned, has been raised.

Very respectfully,

C. MEYER ZULICK,
*Governor.*

No. 756.

*Mr. Connery to Mr. Bayard.*

No. 284.] LEGATION OF THE UNITED STATES,
*Mexico, December* 8, 1887. (Received December 16.)

SIR: I have the honor to inclose translation of a note received yesterday from Mr. Mariscal bearing on the case of the murder of Walter Henry, at Zaragoza, Coahuila, in August, 1878, and the subsequent seizure of his effects by Mexican customs officials.

Mr. Mariscal, you will see, takes refuge in a re-assertion of the statements in his note of November 13, 1886, inclosed in Mr. Manning's No. 22, of the 18th of that same month to you, and adds emphatically:

> The reasons advanced render impossible any further investigations in the case, * * * which was thoroughly tried, and whose final sentence was executed.

I simply submit the case to you for further instructions, if any be necessary.

I am, etc.,

THOMAS B. CONNERY.

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[Inclosure in No. 284.—Translation.]

*Mr. Mariscal to Mr. Connery.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, December* 5, 1887.

SIR: It is not till to-day that I have the honor to answer the note from your legation, dated April 21 last, relative to the murder of the American citizen Walter Henry, at Zaragoza, State of Coahuila, in August, 1878, and to which your dispatch of September 5 refers, for it became necessary to submit to a fresh and careful examination the numerous documents relative thereto on file in this department.

In the said note of April 21 honorable Mr. Manning said that the Government of the United States was unable to concur in the conclusion that there had been no miscarriage of justice in the matter of the murder of Walter Henry and in the case of the subsequent seizure of his effects by the Mexican customs officials, and he requested that further investigation be set on foot concerning certain points set forth in the findings and the decision of the superior tribunals of justice of Coahuila, to wit, that in said decision it was admitted that the local judge, J. M. Delgado, by granting freedom contrary to law to the persons charged with the crime, permitted one of them, Catarino Marquez, to escape; that it therein appears that a part of the property effects of Mr. Henry was distributed and sold among the people of Zaragoza, and that only the remaining part was seized for a violation of the customs law. The said note ascribes to this fact grave import, but regards as still more serious the statement that the seizure of the goods, which are said to have paid full duty, was not entered on the custom-house records. In continuation, it transcribes a part of the court's decision referring to the investigation of these points, an investigation which was in progress in November, 1885, though for some years it lay dormant, retarding thus the ultimate clearing up of the serious charges against the said employés, by whom, adds Mr. Manning, were meant the persons who accompanied Mr. Henry at the time of his murder, and who were charged with the crime, and he closes by saying that the State Department is unable to see the connection between the conduct of the officials, *as such*, and the murder of Walter Henry.

The note addressed by this department to your legation on November 13, 1886, inclosed a copy of the complete decision of the supreme court of justice of Coahuila in the case of the murder of Walter Henry. It seems that the honorable Secretary of State only fixed his attention on the seventh "considering," which, in referring to the conduct of Judge Delgado, declares him responsible for releasing Catarino Marquez contrary to law, and that he did not take into account the third part of the summing up of the sentence, which declares Delgado exempt from that responsibility by virtue of the reasons set forth in the seventh "considering."

The eighth "appearing" also shows that the customs employés were not even suspected of any participation in the murder. The charges therein appearing are those

made against the employés for the seizure and sale of the effects of the deceased, which are said to have paid full duty, and to the clearing up of these latter charges does that "appearing" refer, when it says that the investigation ordered had laid dormant. The note I have now the honor to answer was therefore mistaken in sustaining that these employés were regarded as having accompanied Walter Henry at the time of his murder, and as having been charged with the crime.

It is not strange, therefore, that the State Department at Washington is unable to find any connection between the two incidents. They are entirely distinct, and, as can be seen by the sixth "considering" of the sentence, a separate investigation was instituted concerning the seizure of the effects.

The issues of the Diario Oficial of March 22, 24, and 25, 1879, published the statement of the treasury department concerning the accusation brought by the United States consul at Piedras Negras against the collector of customs at that place, charging him, after receiving the amount of the duties on the effects of Henry, with denying it, for the purpose of declaring the goods as smuggled. This statement of the treasury department, as well as the copy of the sentences pronounced by the district court of Coahuila and the circuit court of Monterey, inclosed to your legation by me in a note dated July 27, 1882, evince that this matter was closed by the vindication of the employés of the Piedras Negras custom-house.

The reasons advanced render impossible further investigations in the case of Walter Henry. This case was thoroughly tried and the final sentence was executed. If it was communicated to your legation, it was simply in order to inform the same of the final solution of the question, in which complete justice had been administered, and not for the purpose of revision of the case; for not even the federal authorities of Mexico can exercise such revisory powers, in view of our form of government, which in this regard resembles that of the United States.

I protest, etc.,

IGNO. MARISCAL.

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## No. 757.

### *Mr. Connery to Mr. Bayard.*

No. 288.] LEGATION OF THE UNITED STATES,
*Mexico, December* 23, 1887. (Received January 3, 1888.)

SIR: I have the honor to mail herewith two copies each of the Diario Oficial from the 8th to the 16th instant inclusive, containing a report of the department of public works relative to the action of the Mexican Government in the matter of the colonization of Lower California by American companies; a report called out by the bitter and repeated statements of the opposition press, to the effect that the nation was in danger, through those colonizing concessions, of losing Lower California, which would, like Texas, finally declare for annexation to the United States. I find it impossible, in connection with the other necessary work in the legation, to send you a translation of the voluminous matter. I have red-pencilled the articles in question.

After citing extracts from the opposition papers, the report proceeds to show that the contracts for colonization allowed to Hale, Haller, Bulle, and others are supported throughout by the federal constitution, the articles of which are quoted in their defense; that the companies have placed more colonists than the Government unaided by them could have done; that the large majority of the settlers are and will be Mexicans; that under the system of grants of public lands to companies who survey large tracts for the Government the latter is enabled to have its surveying done at a minimum cost; that a pacific invasion by Americans who survey and settle public lands is not expected nor feared, and is impossible for many reasons; that as legitimate immigration brings only foreigners who come in search of business and a livelihood, the restriction or the discouragement of such immigration would injure national industries; that colonization companies do not

prefer the foreign to the native element in their make-up, and the laws of Mexico, as well as the provisions of the several concessions, insist upon a large preponderance of Mexicans in the colonies throughout the Republic. Under a financial aspect, the report discusses the advantages accruing to the nation from these colonization projects. At great length it treats of and disproves the theory that the gradual settlement, even by foreigners, of Lower California and of other places, would result eventually, as in the case of the annexation of Texas, in the loss of large national territory, especially as conditions differ between Texas, at that time the prey of adventurers, and Lower California, at present peaceful and prosperous. The report closes with a detailed statement of the colonies on public lands in Sonora, Chihuahua, Chiapas, and Lower California, their numbers, location, amount and value of landed property, and their condition and prospects, which are presented most pleasingly.

Trusting the papers may be of profit and of interest to you,

I am, etc.,

THOMAS B. CONNERY.

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No. 758.

*Mr. Connery to Mr. Bayard.*

No. 295.] LEGATION OF THE UNITED STATES,
*Mexico, January* 9, 1888. (Received January 17.)

SIR: After receiving yours, No. 215, of November 22 last, I made inquiries as to the quarantine proclaimed against Mexican cattle by the governor of Arizona, and have learned little or nothing beyond what was set forth in the inclosure to your No. 215.

I am informed that there are and have been no diseased cattle in Sonora or Chihuahua. United States Consul Willard says that quarantine was based upon a possibility that cattle from New Mexico, where disease existed, should be driven across the frontier and be re-imported to Arizona as Mexican cattle.

Should I learn anything of further interest concerning this matter I will communicate it to you, but I presume the incident is ended, as your No. 224, of 7th ultimo, advises me that the quarantine has been lifted.

I am, etc.,

THOMAS B. CONNERY.

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No. 759.

*Mr. Bayard to Mr. Connery.*

No. 240.] DEPARTMENT OF STATE,
*Washington, January* 16, 1888.

SIR: I inclose for your information copies of correspondence between the Hon. William H. Crain, a member of Congress from Texas, and myself, touching the need of practically determining the boundary between the United States and Mexico where it follows the channel of the Rio Grande or Bravo.

You may incidentally, and without making any proposition to the Mexican Government, inquire and report what machinery, if any, exists in Mexico for determining questions arising under the convention of November 12, 1884.

In conclusion, I desire to add that copies of this correspondence have also been sent to the Secretary of the Treasury, for his information and for such expression of his views as he may deem necessary.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 240.]

*Mr. Crain to Mr. Bayard.*

HOUSE OF REPRESENTATIVES,
*Washington, D. C., January* 9, 1888.

SIR: I have the honor to submit for your consideration the inclosed communication from Mr. J. J. Cocke, collector of customs of the district of Brazos Santiago, in the State of Texas, in which he forcibly presents reasons why there ought to be a treaty between Mexico and the United States for the purpose of establishing the boundary between the two countries.

Your early attention to this subject is earnestly invoked.

I have, etc.,

W. H. CRAIN.

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[Inclosure 2 in No. 240.]

*Mr. Cocke to Mr. Crain.*

CUSTOM-HOUSE, BROWNSVILLE, TEX.,
*Collector's Office, December* 31, 1887.

DEAR SIR: I lately applied to the honorable Secretary of the Treasury for an increase of the force of mounted inspectors for the district of Brazos Santiago, and my application was refused for economical reasons. Since then the pay of all the mounted inspectors and clerks has been reduced on similar grounds and for lack of the necessary appropriation by Congress. On this last I hope you will make a note and try to secure the necessary amount in future. But as to the inspectors, I think it a hardship upon them to work for less pay, when they have less assistance and less rewards of compensation than before.

This district failed to pay expenses last year. But I do not think that the mounted inspectors had anything to do with it. In my opinion the revenue derived from this district would not be materially diminished if there were no mounted inspectors except one at each sub-port. The district would then pay expenses, but the business men of all southwestern Texas would be ruined and the people generally become demoralized through continuous violations of law. The honest inspectors would continue to make entry according to law, until they found it did not pay, but the bulk of the goods and stock sold on this side would be brought from the "free town" of Tamaulipas, where everything is cheaper. With an increase of force a good deal of the smuggling could be stopped. But having failed to get it, the only other remedy that suggests itself at present is a decrease of the distance to be traversed by the mounted inspectors. This can be effected only by a change in the boundary line of the two countries, the United States and Mexico, to the actual channel of the Rio Grande as it now runs, and subjecting the numerous *bancos* or cut-offs to the jurisdiction of the United States. This would be a partial remedy for the evil, but would be of great advantage in the administration of the criminal as well as the customs laws, and therefore I wish to call your attention to the anomalous condition of the boundary between the two countries along the Lower Rio Grande.

The actual boundary line at the time of the treaty of Guadalupe Hidalgo and the survey made thereunder, was the center of the channel of the river at that line. Since then no man knows where it is. For want of that knowledge, with a degree of accuracy that would satisfy the court, the most noted smuggling case was lost by the Government at the last term of United States district court in this city, and every other case may be lost in like manner if the defendant can have a good lawyer and make the point of "boundary unknown."

The bed of the Rio Grande is constantly changing, as well by erosion and accretion as by sudden evulsion and cutting new channels, abandoning the old ones. Within the past ten years I have known the Rio Grande to move its bed 1 mile by simple erosion and accretion and cut-offs or *bancos* of from 20 to 200 acres in extent, to be made in forty-eight hours. Some of these cut-offs continue and increase by deposit from the river, others have been swept entirely away. Under these circumstances it is impossible for any one (and especially a smuggler when caught) to know where the boundary is, and it is impossible to convict any man who smuggles from a *banco* unless caught a long way off from it. There is no survey made nor record kept of the time and place of a cut-off, and generally no one can say whether such *banco* or cut-off is greater or less in extent now than then.

The so-called "Morteritos treaty" of November 12, 1884, proclaimed September 14, 1886, is perfectly worthless. Though framed apparently for the express purpose of defining the boundary, it does not do it any more effectually than the former treaty. The Mexican diplomat, as usual, got away with the "Gringo." That treaty declares that "boundary shall be the center of the normal channel, with any changes caused by erosion or accretion; any other change by cutting a new bed, etc., shall produce no change in the boundary as fixed in 1852, but the line shall continue in the middle of the old bed, even when it becomes dry." Right there lies the trouble. Who is to determine where the old bed's middle is? When there are two or three old beds, how is it to be decided which was abandoned by the river before 1852, and which since?

These *bancos*, with their uncertain boundaries, afford safe retreats for smugglers, thieves, kidnappers, murderers, and every class of criminals, as well as bases of supplies from which to carry on their operations free from interference from either Government. Liquors and tobacco and all kinds of portable merchandise are taken there and smuggled into Texas as opportunity offers. The two inspectors at Sfnta Maria lately had positive information of a hundred gallons of mescal in the Bolsa Banco ready to be brought over. They watched day and night for it but could not catch it. While they were on one side the liquor went out on the other, and was consumed at some big Christmas "bailes" (dances), about 15 miles in the country. That is one instance when the officers knew of the smuggling and could not prevent it. I could give you a hundred. If these nests were broken up smuggling would be greatly reduced. I think the only way to do it is to make a new treaty, defining the boundary between Mexico and the United States to be the channel of the Rio Grande, and giving to the United States and the State of Texas both civil and criminal jurisdiction over the *bancos* or cut-offs on this side, ownership of the land to be settled by other provisions of treaty or courts provided for thereunder. This would enable the mounted inspectors to ride through and examine the *bancos* instead of going around on the outside and see nothing, besides making a saving in distance traveled of from 1 to 4 miles. The Texas cut-off on the Mexican side should be left under the political jurisdiction of Mexico. All dutiable articles in either country should be made to pay duties as soon as they cross the main stream of the Rio Grande, and only then; and the officers of either side should have every facility to detect violations of law, instead of, as now, being hampered by various obstacles of nature, aggravated by laws and treaties.

I have dwelt rather long on the subject, but hope you will be able to understand the situation and do something to remedy it.

I am, etc.,

J. J. COCKE.

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[Inclosure 3 in No. 240.]

*Mr. Bayard to Mr. Crain.*

DEPARTMENT OF STATE,
*Washington, January* 12, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant, submitting for my consideration a communication addressed to you by Mr. J. J. Cocke, collector of customs of the district of Brazos Santiago, in the State of Texas, touching the need of practically determining the boundary between the United States and Mexico where it follows the channel of the Rio Grande or Bravo. My thanks are due for this reference of the letter of Mr. Cocke, who treats the subject intelligently and sets forth his conclusions with clearness and force.

Mr. Cocke argues that the existing provisions of the treaty of Guadalupe Hidalgo and of the boundary convention of November 12, 1884, do not effectively meet the case of constant changes in the river bed caused by the cutting of new channels, and advocates a new treaty "defining the boundary between Mexico and the United States to be the channel of the Rio Grande, and giving to the United States and the

State of Texas both civil and criminal jurisdiction over the *bancos* or cut-offs on this side, ownership of the land to be settled by other provisions of treaty or courts provided for thereunder."

The general question involved was exhaustively considered by Attorney-General Cushing in an opinion dated November 11, 1856 (Opinions Attorneys-General, VIII, 175), the precise point before him being the propriety of a clause proposed by the boundary commissioners, under the treaty of Guadalupe Hidalgo for determining questions of jurisdiction and ownership arising from the changes in the channel of the Rio Grande, and Mr. Cushing adduced incontrovertible precedents and arguments to show the concurrence of authorities in holding that "when a river is the line of arcifinious boundary between two nations, its natural channel so continues notwithstanding any changes of its course by accretion or decretion of either bank, but if the course be changed abruptly into a new bed by irruption or evulsion, then the [deserted] river-bed becomes the boundary."

Articles I and II of the boundary convention of November 12, 1884, lay down this accepted international doctrine and make it the determining rule as between the United States and Mexico. I inclose a copy of that convention for your inspection. It is seen that it merely prescribes the rule, but provides no means of applying it to determine given cases, and it is to this omission, rather than the rule itself, that the strictures of Mr. Cocke apply.

It may be practicable to arrange with the Mexican Government for an international river commission to apply the convention of 1884, the case arising, but as such an arrangement would not be effective without legislative provision for expenses, I would prefer to have some indication of the feeling of Congress in the premises before entering on any formal negotiation; and moreover, it would seem proper, in view of the association of revenue questions with that of jurisdiction, to consult the Secretary of the Treasury on the subject. I have accordingly communicated to Mr. Fairchild a copy of your letter and its inclosures and of my present reply.

I am, etc.,

T. F. BAYARD.

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## No. 760.

### *Mr. Bayard to Mr. Connery.*

No. 243.] DEPARTMENT OF STATE,
*Washington, January* 18, 1888.

SIR: I transmit a copy of a letter from Messrs. Alexandre & Sons, dated the 12th instant, wherein they refer to the introduction in the Mexican Congress of a bill, which, however, failed of passage, granting to American steamers the 2 per cent. rebate in duties enjoyed by the Spanish line of steamers.

As the Department has no information upon this subject, I will thank you to report whether such a bill was so introduced; and, if so, to obtain, if possible, a copy thereof for the Department's information, accompanied by a translation of the same.

I am, etc., T. F. BAYARD.

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[Inclosure in No. 243.]

*Messrs. Alexandre & Sons to Mr. Bayard.*

NEW YORK, *January* 12, 1888.

SIR: We beg to inform you that we are in receipt of advices from our correspondents in Mexico, informing us that the Mexican Congress had adjourned without passing the bill granting to American steamers the 2 per cent. rebate in duties enjoyed by the Spanish lines of steamers, which had been confidently expected.

This 2 per cent. rebate in duties in favor of the Spanish line enables it to underbid us on freights to the Mexican Gulf ports, and it is only a question of a short time now when we will have to withdraw from a route on which our steamers have been the representatives of American enterprise for a period of twenty years.

Yours, etc.,

F. ALEXANDRE & SONS.

No. 761.

*Mr. Bayard to Mr. Connery.*

No. 244.] DEPARTMENT OF STATE,
*Washington, January* 19, 1888.

SIR: I have to call your attention to the claim of Howard C. Walker, a citizen of the United States, against the Government of Mexico for wrongful imprisonment and cruel treatment by Mexican officials at Minatitlan in the State of Vera Cruz. This case has already been before your legation, and the correspondence relative to it is printed in the Foreign Relations for 1884, pages 360, 366, 372, and 377.

It appears from the papers now presented in the case, copies and translations of which, with Mr. Walker's petition, are now transmitted to you, that Mr. Walker has resided at Minatitlan since 1881, being employed as shipping clerk of Mr. R. H. Leech, a lumber merchant. On March 19, 1883, while thus employed, he was arrested by order of Mr. Carlos Molina, judge of first instance at that port, on the charge of stealing wood from one José R. Teran and shipping the same as the property of Mr. Leech. After four days' imprisonment, during which he was treated with much indignity, he was brought for a hearing before Judge Molina. He was not, however, admitted to bail, but was after the hearing remanded to jail, where he was kept until the following day, when a violent attack of hemorrhage of the lungs compelled his removal to his own house. There during his illness and recovery he remained under guard for several months. In November, 1883, his case was called for trial before Mr. R. M. Sousa and he was promptly acquitted. The case was appealed to the superior court at Vera Cruz, from which, after three months' delay, it was remanded for a new trial. Mr. Walker was thereupon again imprisoned on February 12, 1884, not being permitted to give bond, and confined for three months and eleven days in one room, with fifty-five prisoners of the lowest sort, in a jail which, from the description given of it by the claimant, would seem to have been utterly unfit for human habitation. He was treated with marked insult, and at one time an attempt was made by Mexican officials to have him shot. His friends, and even the American consul, were denied access to him. At length, on May 23, 1884, his health having completely failed, he was released on $40,000 bail, although, according to a statement dated July 30, 1884, of Mr. J. D. Hoff, then United States consul at Vera Cruz (Foreign Relations, 1884, page 378), the property alleged to be stolen "is not worth more than $2,500, and never was." On March 20, 1885, Mr. Walker was again tried before the court of first instance, Judge Rosaldo presiding, and again acquitted. From this decision the Government again appealed, and on January 22, 1887, the supreme court of Vera Cruz rendered its final decision acquitting and fully vindicating Mr. Walker.

It thus appears that Mr. Walker was compelled to rest for nearly four years under the charge of theft; that his trial was unduly delayed; that he was at first not allowed to give bail; that while in prison he was subjected to insult and ill treatment; that when finally released on bail he was required to give bond to an excessive sum, and that by this treatment great mental and physical suffering was inflicted on him, and his health was seriously, and, as he alleges, irreparably injured.

It further appears that Mr. Walker has made direct efforts, through his attorney, Mr. Y. Sepulveda, to obtain from the Mexican foreign office pecuniary redress for the injuries done to him, but without success.

It has not been thought necessary to enter more into details in respect to the circumstances of Mr. Walker's case, which are simply and succinctly related in his memorial (duly supported by official documents), which accompanies this communication, and contains a narration of grievous injuries inflicted upon the petitioner by Mexican officials at Minatitlan, for which it is hoped that the Government of Mexico will afford prompt and adequate redress.

You are therefore directed to present the case (with copies of the papers now transmitted to you) to the Mexican Government, and to ask for its consideration and a subsequent conference with the minister of foreign affairs as to the reparation to be given.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 244.]

*Mr. Morris to Mr. Bayard.*

WASHINGTON, D. C., *December* 6, 1887.

DEAR SIR: As attorney for Mr. Howard C. Walker, I have the honor to transmit to you herewith a petition of Mr. Walker, setting forth the wrongs which he has suffered at the hands of officials of the Government of Mexico. As a citizen of the United States Mr. Walker respectfully claims redress through your Department. Will you be pleased that such steps be taken in the premises as may seem just and proper.

Very respectfully,

M. F. MORRIS.

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[Inclosure 2 in No. 244.]

*Mr. Walker to Mr. Bayard.*

SIR: The petitioner, Howard C. Walker, respectfully requests the protection of the United States and the assistance of the Department of State to enable him to procure relief from the Republic of Mexico for the wrongs suffered from the officials of the said Republic, as herein stated.

The petitioner is a citizen of the United States, and a resident of Charleston, in the State of South Carolina, but since the year 1881 has been temporarily sojourning in Minatitlan, in the State of Vera Cruz, in the Republic of Mexico, where he has been employed as shipping clerk of R. H. Leech, exporter of mahogany and cedar wood at the port of Minatitlan.

On March 19, 1883, while this petitioner was engaged in the pursuit of his business in loading the Norwegian bark *Circassia* with mahogany wood belonging to said Leech, he was arrested by order of Senor Carlos Molina, judge of first instance at said port, on the charge of stealing such wood from José R. Teran, a citizen of the place, and shipping the same as the property of Leech. He was placed in the common jail, kept in close confinement, cut off from communication with family and friends, conducted once every day from said jail through the public thoroughfares to the dock where the *Circassia* was receiving its cargo, publicly branded as a thief, and otherwise treated with insult and indignity. After three days of such treatment this petitioner was brought into court, where for the first time the charge of theft was formally made, and this petitioner given the opportunity of denying the same. His denial was positive and explicit, and by order of said judge made in writing. These proceedings were had before the same judge, Molina, and at their conclusion this petitioner was again lodged in jail. On the day following he was stricken with an illness which necessitated his removal from the jail. He was thereupon taken to his house in what was supposed to be a dying condition, and for seventeen days medical skill was impotent to stop the repeated hemorrhages from the lungs, and for several months he was unable to move from his house. During all this time he was under guard and treated as a prisoner in his own house. In November of 1883 his case was called for trial before Mr. Ricardo M. Sousa, and this petitioner was promptly acquitted of the charges preferred against him. An appeal, however, was taken from the judgment of this court to the superior court at Vera Cruz, and after three

months' delay the case was heard and remanded for a new trial. This action of the superior court resulted in the second arrest of the petitioner, who was again conducted to jail, and confined for three months and eleven days in the common pen of said jail, a small room, where fifty-five prisoners of the lowest sort and condition were kept. The condition of this room was filthy beyond description, and the prisoners were denied the most ordinary appliances for preserving cleanliness and health. During this time, the petitioner was compelled to pay exorbitant prices for every service, and even for the water necessary for drink and personal use. Some of the prisoners were affected with contagious diseases, and the atmosphere of the room was that of a pest-house. This petitioner was insulted on every occasion by the officials of the jail, and was frequently visited by one Guillermo Castellanos, a judge of the first instance, who, coming in an intoxicated condition almost every evening, would amuse himself by insulting and ill-treating this petitioner.

This judge would compel the petitioner to be paraded between two of the guards upon the streets and public walks of the place, and, when from extreme weakness and ill-health the petitioner would protest against this treatment, he would be told that if he did not obey the jailors would be ordered to beat him into obedience. On one occasion the guard was directed by this judge to shoot the petitioner, on the ground that he was obnoxious to the courts. This direction will appear by reference to the affidavit of Carlos L. Matoso, commander of the guards, hereunto filed and marked Exhibit X.

The hours for admitting visitors to the jail were changed each day, so that it was impossible for any one to see petitioner. Even the American consul was prevented from visiting the petitioner. He was denied all communication with his family, and prevented from obtaining medical aid or medicines. On the 23d of May, 1884, his health having completely failed him, this petitioner was released on bail for the sum of $40,000. On the 20th of April, 1885, he was again tried before the court of the first instance, Judge Rosaldo presiding, and again acquitted, Judge Rosaldo stating from the bench that the case instead of lasting two years should not have lasted two days.

From this decision the Government again appealed, and on January 22, 1887, the supreme court rendered its final decision, acquitting the prisoner and vindicating him in the most positive and complete manner, and giving him the right to claim damages against the parties liable. Thus finally, four years after the date of his first arrest, the petitioner was acquitted and set at liberty.

A transcript of the record of the jail at Minatitlan, showing the date of arrest and of the several trials and judgments above referred to, is herewith filed, marked Exhibit A.

It will be seen from this record that for four years this petitioner was compelled to rest under the charge of theft, and that he was by the delays of the Mexican officials prevented from having these charges promptly or properly investigated; that every delay was resorted to by the Government to postpone the acquittal of the prisoner in a case which on its face showed the innocence of the accused; that during these four years the petitioner was subjected to insults, indignities, and inhuman treatment such as is never meted out even to the greatest criminal; that under this treatment the petitioner's health was entirely undermined and destroyed. At the date of his first arrest he was of strong and robust health, and to-day he is a confirmed invalid, and will continue so, according to the opinion of the best physicians of this country, to the end of his life.

After his final acquittal by the superior court at Vera Cruz, a copy of whose judgment is herewith filed, marked Exhibit B, this petitioner applied to the Mexican Government, through the secretary of foreign relations, for damages for the wrongs and injuries sustained, but his claim was, on May 13, 1887, disallowed, as will appear by the letter of Y. Sepulveda herewith filed and marked Exhibit C. This petitioner refers to the certificate of I. C. Valos, municipal officer of the district of Minatitlan, as evidence of his residence in that place and his character and good conduct.

By reason of the premises and of the injury to the petitioner in his health, feelings, and pecuniary damage, the petitioner submits that he has suffered loss to the amount of $150,000, wherefore he respectfully prays that such action may be had as will enforce his just rights.

HOWARD C. WALKER.
By his attorneys, MORRIS & HAMILTON.

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[Inclosure 3 in No. 244.—Translation.]

*Certificate of Juan Coli.*

Juan Coli, keeper of the public jail of this town, hereby certifies in due form that in the book of entries of this office there appear the following:

On page 156, entry No. 1728, March 19, 1883, H. C. Walker entered this jail by order of the judge of 1st instance. Same page and same entry, March 21, 1883, Mr.

H. C. Walker went to his house as prisoner by order of the same judge. Page 182, entry 2119, Feb'y 12, 1884, Mr. H. C. Walker entered this jail to continue his imprisonment by order of the same judge as an accomplice of robbery, being declared a formal prisoner. Same page and entry, May 20, 1884, he was placed under 2d justice of the peace. On page 188, entry No. 2197, May 22, he was set free under bond by the same judge. Page 12, entry No. 2534, Feb'y 22, 1885, he entered this jail by order of the 1st justice of the peace. Same page and same entry, Feb'y 24, 1885, he was released under bond by same judge. Same page and same entry, Feb'y 23, 1887, he was set at absolute liberty by order of the hon. tribunal of justice and at the instance of same justice of the peace.

And at the request of the party in interest I now issue the present for the purposes that may best suit him, at Minatitlan, on this the 23d day of February, 1887.

JUAN COLI.

(Keeper's seal and two internal-revenue stamps for 25 cents each.)

C. Francisco Garcia, political prefect of the district of Minatitlan, certifies that the foregoing signature which reads Juan Coli is the one which he uses in his public acts as well as in his private affairs, and that he is at the present time employed as keeper of the public jail of this town.

In testimony whereof I now issue this certificate at Minatitlan on this 2d day of March, 1887.

FRANCISCO GARCIA.
P. CASTELLANOS,
*Secretary.*

(Prefect's seal and two internal-revenue stamps of 25 cents each.)

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[Inclosure 4 in No. 244.—Translation.]

*Certificate of Ignacio Cevallso.*

Ignacio Cevallos, municipal officer of this district, hereby certifies that the American citizen Howard C. Walker, a native of Charleston, State of South Carolina, in the United States of America, having remained at this place during five years, has observed good conduct and punctually paid up his taxes, municipal as well as State taxes.

Therefore, upon giving up his domicile here on this date, the present certificate is issued to him for the purpose which may best suit him, and of which note has been taken in the respective book.

Minatitlan, March 2d, 1887.

I. CEVALLOS.

Countersigned:

GARCIA.

(Two official seals and two internal-revenue stamps of twenty-five cents each.)

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[Inclosure 5 in No. 244.—Translation.]

*Judgment of the supreme court of Vera Cruz.*

José Demetrio Tapia, secretary of the court of first instance of the district, hereby certifies that on the book of sentences of this court, on pages 16 and 17, there appears a sentence which reads as follows:

"A seal." Supreme tribunal of justice of the State of Vera Cruz, Llave; full bench, secretary's office; this bench gave this day the following sentence:

Having examined the present suit brought against H. C. Walker and Christian Jobsen for theft and the additional charge against the said Walker for assault and battery upon Juan Girod, the former being a native of the United States of the North, of full age, married, a clerk and resident of Minatitlan, and the latter a native of Norway, married, of full age, and a sailor; the sentence which on the 20th of March of last year, 1885, was pronounced by the court of 1st instance of Minatitlan based upon the legal measures which it invokes, deciding:

The charge of stealing lumber brought against H. C. Walker and Christian Jobsen, is hereby dismissed, their right to recover damages from whoever may be responsible being free.

2d. H. C. Walker is free from criminal responsibility on account of the wound he inflicted upon Juan Girod in rational and legitimate defense.

3d. The accused, Walker and Jobsen, are set at liberty under promissory bond, and therefore the bonds given for them are hereby cancelled.

4th. Let personal notice be given, &c.

Having examined the appeal interposed against the above sentence by plaintiff, Mr. José R. Teran, admission of the recourse, citation for this sentence, what has been alleged by plaintiff and the reply of counsel for the defense, Messrs. Betancourt y Vega and Salvador Roman, citation for sentence and everything else which was deemed worthy of judicial attention:

Considering, 1st. That the basis of all criminal proceedings is the commission of a crime and its legal proofs in such a manner that when the same is not proven the investigation has to cease, and hence it must end for the want of substantial proof in support of penal justice and also because it is in the interest of society that no criminal proceedings shall remain pending indefinitely. 2d. That in the case under consideration there were exhausted on the part of the court as on the part of (defendant) plaintiff all the means conducive to the proving of the larceny alleged to have been committed, without there having been obtained but vague presumptions of its commission, which can not judicially prolong for any more time the investigation which, as very well stated by counsel of defendants, has had two marked periods decided by the orders of dismissal decreed in 1st instance, and in neither of them have either the zeal of plaintiff nor the judge's duty been able to advance a single step to prove the criminal act denounced, and much less as to the conviction of the guilt of the accused. 3d. That although the accuser, represented in this instance by a very distinguished lawyer, alleges that the dismissal decreed is illegal because it is a suit followed at the request of the party in interest, it must be remarked that this circumstance in no manner alters the judicial nature of the proceedings, and, besides, we are dealing with an offense which may be prosecuted also by law, such as is the robbery or theft of lumber, and there must above all be borne in mind that the duration of proceeding is not subject to the judgment or the caprice of an accuser, however indefatigable he may be, but to the common rules of law and of morality, for the investigation once exhausted without the proving of the offense imputed, it were unjust and immoral to continue the proceedings for the sole purpose of gratifying the accuser, to the prejudice of social interests and, still more, to the irreparable injury of the accused, who would remain at the mercy of the former for an indefinite period of time. Considering, finally, that the facts relative to the suits brought against H. C. Walker are equally well appreciated, and that there have been exactly applied to the same the legal measures which serve as a foundation of Art. 2d of the sentence now under revision. Therefore, now, and for the same reasons of the sentence appealed from, this full bench of the hon. superior court of justice of the State hereby resolves:

1st. The foregoing sentence of dismissal is hereby confirmed.

2d. Let this be communicated to the judge that he may notify the same as may be right, giving account thereof; inform the lawyers, Messrs. Manuel M. Rivadeneyra, representative of the accuser, and Juan M. Betancourt, Antonio Vega, and Joaquin G. Aguilar and Salvador Roman, as counsel for defendants, and let the proceedings be put on file in due time.

LUIS CALDERON.
RODE GUTIERRES MORALES,
*Secretary.*

And I have the honor to communicate the same to you for compliance therewith.
Jalapa, Dec. 29, 1886.

R. GUTIERRES MORALES.

*To the judge of 1st instance, Minatitlan.*

The above is a true copy taken from the original at the request of Mr. H. C. Walker, and for the purposes that may best suit him the present is now issued.
Minatitlan, Jan. 28, 1887.

J. D. TAPIA.

Countersigned:

LARRA.

(Seals; two internal-revenue stamps of 50 cents each.)

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[Inclosure 6 in No. 244.]

*Mr. Sepulveda to Mr. Walker.*

CITY OF MEXICO, *May* 13, 1887.

MY DEAR SIR: As your attorney, I had yesterday an interview with Mr. Mariscal, secretary of foreign relations, relative to your claim for damages. He authorizes

me to inform you that the Mexican Government could not possibly allow you any damages, giving as a reason that the Government did not consider the same just.

I regret very much the conclusion reached, as I had harbored the conviction that justice attended your case, and have done all in my power to have your rights recognized.

I am, etc.,

Y. SEPULVEDA.

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[Inclosure 7 in No. 244.—Translation.]

*Certificate of Alejandro Gamboa.*

The undersigned, resident of Bodegas de Otapam, certifies that in the year 1884 he was commander of the Rural Guards for the southern districts of the State of Vera Cruz; that during the same year, in the month of February, doing garrison duty with the detachment of said guards under his command at the town and head district of Minatitlan, I know that the American citizen H. C. Walker was a prisoner in a cell of the jail of said municipality, for a supposed lumber robbery, and by the written order of the judge of 1st instance, Guillermo Castellanos, and the political prefect of the district, Julio J. Novoa, daily took the said Walker from the jail at 7 a. m., giving a receipt therefor to the jail-keeper, and taking him through the streets and public thoroughfares of said town, he conducted him on board the Norwegian bark *Circassia*, turning him over to the said Judge Castellanos, who was on board the said vessel, looking over the unloading of the same. At 12 m. of each day, during all the time such unloading lasted, he turned over to me the said Walker, from which place I took him again to the public jail of said town, handing him to the keeper of the same and recovering from the officer the receipt which the undersigned had given in the morning for the person of said Walker; and at 3 p. m. of every afternoon the same operation was repeated, the undersigned turning over the said prisoner Walker at 6 p. m., when he was locked up in the cell, where he suffered his imprisonment with the balance of the criminals.

At the request of the party in interest, and for the uses which may best suit him, I sign this at Bodegas de Otapam, Mar. 5, 1887.

ALEJANDRO GAMBOA.

(A 50 cents internal-revenue stamp.)

The citizen Pedro O. Diaz, 1st justice of the peace of this town, makes known that the signature subscribed to the foregoing instrument and reads "Alejandro Gamboa" has been affixed thereto in my presence, and is in his own handwriting, as used by him.

I attest.

Santiago Tuxtla, March 8, 1887.

PEDRO O. DIAZ.
J. M. GARCIA,
*Secretary.*

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[Inclosure 8 in No. 244.—Translation.]

*Mr. Matoso to Mr. Walker.*

MEXICO, *April* 12, 1887.

MY DEAR SIR: Your favor of yesterday has been received, from which I see that you desire me to recite what occurred in the port of Minatitlan during my presence there as commander of the detachment of the 15th Battalion, and also as to the instructions I received regarding yourself.

Complying with your request, I will state that during the month of March, 1884, there came to me at about 2 a. m. at my lodgings, which were close to the jail in which you were a prisoner on account of the question of the *Circassia*, the lawyer Guillermo Castellanos, judge of 1st instance, and Col. Antonio Rodriguez Guerra, chief of the federal troops at that port, who gave me orders to fire through the windows of the prison at the first symptoms of disturbance, and to try and kill you as you were obnoxious to the country, and that they had secret instructions from the Government upon this subject. As you can not but be aware, such outlandish orders made me quite indignant, the more so as the respectable name of the Government was used to satisfy purely personal revenges, to which I refused stating to those gentlemen that what they sought was utterly impossible, as it referred no more nor less to the

commission of a murder against a foreign citizen who was subject to trial by the respective authority; that, therefore, my duty as a soldier was to give guarantees and preserve order, but never to become a vile assassin. The result of this was that both Col. Rodriguez Guerra and Lawyer Castellanos became my enemies, and to that effect, later on, I was the victim of an ambuscade which was prepared against me at Col. Guerra's house for the purpose of murdering me, whence I left seriously wounded and was taken a prisoner to Veracruz under many calumnies. The result of this was that we were both tried, and after two years and several months' imprisonment I was acquitted. and the colonel sentenced to two years' imprisonment, as the many abuses he committed were proven.

I think that the above will satisfy your request, and I now beg to remain, with best regards,

Yours, etc.,

CARLOS L. MATOSO,
*Lieutenant.*

The foregoing letter was signed in our presence by the lieutenant Carlos L. Matoso, who is personally known to us.

MEXICO, *April* 12, 1887.

YGNACIO SEPULVEDA.
GUILLERMO PRITCHARD.

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## No. 762.

### *Mr. Bayard to Mr. Connery.*

No. 250.] DEPARTMENT OF STATE,
*Washington, January* 26, 1888.

SIR: With further reference to my No. 240, of the 16th instant, I herewith transmit for your own information a copy of a letter from the Secretary of the Treasury, dated the 24th instant, concurring in the Department's suggestion, with regard to the determination of the boundary between the United States and Mexico where it follows the channel of the Rio Grande, for the appointment of an international river commission to apply the rule prescribed by the boundary convention of November 12, 1884.

The honorable William H. Crain, M. C., has been furnished with a copy of Mr. Fairchild's letter.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 250.]

### *Mr. Fairchild to Mr. Bayard.*

TREASURY DEPARTMENT,
*January* 24, 1888.

SIR: I have the honor to acknowledge the receipt of your communication of the 16th instant inclosing, for an expression of my views thereon, copy of correspondence between yourself and honorable William H. Crain, of Texas, touching the need of practically determining the boundary between the United States and Mexico where it follows the channel of the Rio Grande.

In view of the difficulties constantly experienced in enforcing the revenue laws on the Mexican frontier, owing in a great measure to the present uncertainty as to the boundary line between the two countries, I concur in your suggestion for the appointment of an international river commission to apply the rule prescribed by the boundary convention of November 12, 1884.

Respectfully, yours,

C. S. FAIRCHILD.

No. 763.

*Mr. Connery to Mr. Bayard.*

No. 301.] LEGATION OF THE UNITED STATES,
*Mexico, February* 6, 1888. (Received February 14.)

SIR: Referring to your No. 240, dated January 16, 1888, I beg leave to report that, having had occasion to confer with Mr. Mariscal about some other matters, I incidentally alluded to the subject of the boundary between the United States and Mexico where it follows the channel of the Rio Grande.

I should first mention that I have not been able to find in the legation any map clearly showing the boundaries between the two countries, and I therefore asked Mr. Mariscal if he could allow me the use of such a map for a week or so. He promised to send me the latest issued by the department of public works.

This brought me easily to the subject of the necessity to keep some record of the changes in the channel of the Rio Grande, and I found, on questioning Mr. Mariscal, that his Government kept no such record and had devised no plan for determining questions arising under the last boundary convention. He remarked that the original boundary lines could always be determined by the maps which formed part of all the treaties made since 1848, that of Guadalupe Hidalgo, down to the boundary convention of November 12, 1884. In all those treaties, said Mr. Mariscal, the old Roman principle had been adopted, namely, that the sudden and great diversion of a river course would leave the boundary line where originally fixed by treaty prescriptions, and that only the gradual changes operated by natural causes, through erosion, deposit of alluvium, and such like agencies, could effect an alteration of the boundary lines.

As a matter of course, I made no suggestion or proposition, not even alluding to the difficulties experienced in enforcing the revenue laws on the frontier.

I am, etc., THOMAS B. CONNERY.

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No. 764.

*Mr. Bayard to Mr. Connery.*

No. 258.] DEPARTMENT OF STATE,
*Washington, February* 13, 1888.

SIR: I herewith transmit for your information a copy of a letter from the Hon. S. W. T. Lanham, a member of Congress from Texas, dated the 8th instant, covering a communication to him from the president of El Paso Development Board, in regard to wing-dams understood to be in course of construction on the opposite bank of the Rio Grande, and which, if prosecuted to completion and permitted to remain, will seriously damage a portion of the city of El Paso.

While this Government has no desire to interfere with any improvements which Mexico may deem essential for the due protection of her shores, yet, at the same time, it is not believed that anything which threatens serious injury to American property rights will, in the interest of good neighborhood, be persisted in upon proper representations being made.

Accordingly, you will suitably lay the facts in this correspondence before the Mexican Government, asking to be favored with an explanation in regard to the wing-dams, and, if necessary, that steps be immediately taken to remedy the evil complained of.

For convenience I inclose two tracings showing merely the course of the river and the position of the wing-dams on the Mexican side. One of these copies you may present to Mr. Mariscal with your note upon the subject.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 258.]

*Mr. Lanham to Mr. Bayard.*

HOUSE OF REPRESENTATIVES,
*Washington, D. C., February* 8, 1888.

DEAR SIR: I respectfully transmit a communication, with accompanying map, this day received by me from the president of the El Paso Development Board.

Your consideration of the matter stated is respectfully requested.

I have, etc.,

S. W. T. LANHAM.

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[Inclosure 2 in No. 258.]

*El Paso Development Board to Mr. Lanham.*

EL PASO, TEXAS, *January* 30., 1888.

DEAR SIR: We desire to call your attention to the following situation, and ask your kind offices in at once calling the attention of the honorable Secretary Bayard to it, and request him to take as prompt and effective action as is possible to cause the work which threatens our city to be stopped before it is too late, and the course of the Rio Grande permanently changed.

Inclosed you will find a map, and the red lines on the Mexican side of the river will show about the localities where they are working.

The land on which the city of El Paso is built is, from about where the court-house stands, to the west, south, and east, alluvial soil deposited by the river, and were the course of the river permanently deflected, so that its force is turned upon our banks, then in a very short space of time a large part of the town would be washed off.

We grant that the Mexicans have the right to protect their own banks, but hold that they have no right to construct dams, *wing-dams*, on any work of this kind, to the injury and impairment of our shores, as they are now doing.

These wing-dams are 6 to 8 feet high, and very substantially built of timber, rock, and willows, and, while largely finished now, more are in process of construction. The work on the latter should be stopped at once, and the dams already finished removed, for as soon as the high water comes the damage to our town will be serious.

Urging as strongly as we can your prompt action in this matter, we remain,

Yours, respectfully,

EL PASO DEVELOPMENT BOARD,
S. W. RUSSELL,
*President.*

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No. 765.

*Mr. Bayard to Mr. Connery.*

No. 263.] DEPARTMENT OF STATE,
*Washington, February* 15, 1888.

SIR: I have received your No. 301, of the 6th, stating that the Mexican Government has devised no plan for determining questions arising un-

der the boundary convention of November 12, 1884, between that Republic and the United States.

I have forwarded a copy of your dispatch to the Hon. William H. Crain, of the House of Representatives, for his perusal, in connection with my letter to him of the 13th instant, covering the draught of a joint resolution looking to the creation of an international commission for the settlement of questions arising under that convention. I add for your information and fires a copy of that letter.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 263.]

*Mr. Bayard to Mr. Crain.*

DEPARTMENT OF STATE,
*Washington, February* 13, 1888.

SIR: In response to the request contained in your letter of the 6th instant, that I should furnish you with a draught of a bill or resolution the presentation and discussion of which may serve to indicate the feeling of Congress with respect to the suggestion heretofore made by me and concurred in by the Secretary of the Treasury that an international commission be created by the United States and Mexico to apply to the settlement of questions arising from changes in the bed of the Rio Grande the rules laid down in the convention of November 12, 1884, between the two countries, I have the honor to propose the following draught of a joint resolution to the end in view:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President be, and he hereby is, requested to negotiate with the Government of Mexico for the creation of an international commission to determine, according to the rules laid down in the convention between the two countries signed at Washington the 12th day of November, 1884, all questions touching the boundary line between the United States and Mexico where it follows the bed of the Rio Grande and the Colorado River.

I have, etc.,

T. F. BAYARD.

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No. 766.

*Mr. Connery to Mr. Bayard.*

No. 305.] LEGATION OF THE UNITED STATES,
*Mexico, February* 18, 1888. (Received February 28.)

SIR: I have the honor to report that I received this day from Mr. James B. Chess a letter, dated Durango, February 13, informing me that the life of an American citizen, named Oliver Woods, was in danger, owing to the fact that he had been arrested on the charge of having furnished supplies to the notorious bandit Eraclio Bernal.

I immediately addressed a note to Mr. Mariscal, copy of which is inclosed, asking him to telegraph to the State authorities instructions for the protection of Mr. Woods. I beg to inclose you also a translation of Mr. Mariscal's reply, by which you will see that he acted with the most commendable promptness, which I hope will be the means of saving the life of Mr. Woods.

I should also state that I telegraphed Mr. Jones, the consular agent at Durango, to forward a report at once to the State Department.

I am, etc.,

THOMAS B. CONNERY.

[Inclosure 1 in No. 305.]

*Mr. Connery to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, February* 18, 1888.

SIR: I would most respectfully call your excellency's attention to a matter that has to-day come to my attention through an authoritative channel.

About the 8th instant an American, named Oliver Woods, a farmer living in Ventanas, State of Durango, was caught and carried out of the State of Durango to the town of Cosalá, under charge of having furnished corn, etc., to Eraclio Bernal, the bandit. I am informed that it is true that Woods did let Bernal have corn, etc., but that he could not help himself, as the bandits left him no other choice in the course of their raids on his San Manuel ranch.

The almost incredible statement is made that one of the desperadoes captured, who has turned state's evidence, is denouncing people right and left, and that almost as fast as these are caught they are shot.

It is feared that Woods will be shot, and I would urgently beg that your excellency would take measures, even by telegraph, to stop his summary execution, which is to be feared, at least until a court can pass upon his case.

I beg, etc.,

THOMAS B. CONNERY.

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[Inclosure 2 in No. 305.—Translation.]

*Mr. Mariscal to Mr. Connery.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, February* 18, 1888.

Mr. CHARGÉ D'AFFAIRES: I have just received your note of this date, touching the notice you give of the arrest in Ventanas and the conduct to Cosalá of the American Oliver Woods, on the charge of having furnished corn to the bandit Eraclio Bernal.

I at once communicated with the governors of the States of Sinaloa and Durango, requesting, by telegraph, that in case the said Woods had been apprehended, they should take care that he be tried under all the guaranties granted to the accused by the constitution and the laws.

I reiterate, etc.,

IGNO. MARISCAL.

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## No. 767.

[Extract.]

*Mr. Connery to Mr. Bayard.*

No. 306.] LEGATION OF THE UNITED STATES,
*Mexico, February* 21, 1888. (Received March 1.)

SIR: I have now the honor to transmit herewith a translated copy of the long reply of Mr. Mariscal, dated the 10th instant, to my note of November 15, 1887, relative to the case of A. K. Cutting. So much time has been occupied in making the translation, that I have been unable to prepare a copy of Mr. Mariscal's note in the original Spanish. However, this will be forwarded to you in the course of a few days.

I content myself with merely expressing regret that Mr. Mariscal has not met your proposition in the same spirit of conciliation displayed in your comprehensive instructions to me. In his zeal to put forward a clever answer it appears to me he has overlooked or belittled the real object of the discussion, namely, the removal of a probable cause of trouble between two countries whose interest it is to live always on the

most friendly terms. Mr. Mariscal seems to forget that the continued existence of article 186 of the Chihuahua penal code is, and only can be, a danger for Mexico itself.

I am, etc.,

THOMAS B. CONNERY.

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[Inclosure 1 in No. 306.—Translation.]

*Mr. Mariscal to Mr. Connery.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, February* 10, 1888.

Mr. CHARGÉ D'AFFAIRES: I had the honor to receive your note, dated the 15th of last November, in which, under instructions from your Government, you re-open the consideration of the case of A. K. Cutting, a citizen of the United States, matter of discussion since a year and a half ago between the two countries. You commence by saying that the re-opening of this case will hardly surprise me. In effect advice had reached me that, by order of the Department of State, at Washington, the questions relative to extraterritorial jurisdiction as connected with the said case were subject of very careful study. I could well expect, therefore, to receive some proposition for the conventional arrangement of this matter by means of a treaty whereby both parties might modify the legislation in force in the territory of each. That would not have surprised me, no matter what reply I might have given in the name of the Mexican Government to such a proposal; yet I frankly confess my surprise at seeing the discussion renewed with the dual purpose of asking, or preparing to ask, for an indemnity in favor of the aforementioned Cutting, and of requiring that Mexico alone should modify her legislation, or rather that of the several States of the Mexican Union, because, as is alleged, that legislation antagonizes international right.

I will not now dwell upon the notorious character of the claimant, whom I thus style, for it is a well known fact that it was Cutting who presented this claim without even specifying the amount involved; nor will I enlarge upon the filibustering schemes with which that person has unceasingly threatened Mexico, for I would be answered that in a question of principles personalities should be ignored. Nevertheless I can not forbear from observing that when a Government like that of the United States decides to impart its protection to a person in the present circumstances of Cutting, it must be profoundly convinced of the justice of its course, and I therefore regret that such has become its conviction, for in the judgment of the Mexican Government this claim has no solid foundation. It was to have been hoped that, as you stated, the excitement (due to accidental causes) provoked by the first discussion of the imprisonment of Cutting having passed away, Mr. Bayard would give ear to our arguments, and after re examining the questions would become convinced that the two counts of the petition explicitly set forth in your note could not be insisted upon without a violation of that justice and equity which is binding upon all nations.

Both counts have a common basis, the pretended opposition of the one hundred and eighty-sixth article of the penal code of Chihuahua to the principles of the rights of individuals. Still, as the petition for indemnity for Cutting is also based upon other grounds, and it can be demonstrated that the argument brought forward in relation to the said article does not favor that petition, even supposing it to be opposed to international right, I am first going to deal with what concerns the claim of Cutting, and afterwards will engage in vindicating that part of Mexican legislation from the unjust reproach placed upon it. I will not do so with the great force and erudition displayed in the memorial or work prepared to combat that article, and which, by order of your Government, you were pleased to furnish me, as you say, to form a part of the papers in the case. I will not do so, because I consider it opportune, without great delay, to present a reply, and consequently have consumed but little time in the preparation of this memorial. Fortunately it is not necessary to enter into the details of this important study, and, even accepting almost all your propositions, there is yet an obvious lack of reason in the accusation made that Mexican legislation transgresses the rules to which all civilized nations should submit.

Reverting to the petition for indemnity for Cutting, I would say that its principal ground consists in the allegation that Mexican courts did not possess jurisdictional powers to try him for the libel of which he was the author in the United States. Further on we will see that they did have that power in virtue of a legislative enactment of this country, which is not opposed to the unquestioned principles accepted by all nations and which can not, therefore, be objected to by any foreign government. Let us for a mo-

ment, however, admit that such jurisdiction did not cover the crime committed in a foreign land; it certainly did suffice to try the responsible party for the circulation of that libel had in Mexican territory, and for this cause also was Cutting tried, as appears in the sentence by Judge Zubia. The court, therefore, having jurisdiction in either event, the basis of the claim falls to earth; that is, the alleged lack of jurisdictional power, the leading point advanced.

It is true that in the instructions given to you it is stated that nowhere does it appear that the libel was circulated in Paso del Norte, nor does it appear that, in compliance with the court's order referred to in the sentence, any copies thereof were found there. Still, naturally, this point is not strongly urged, for to deny a fact set down in the findings of a court sentence, and which was also manifestly public in that place, simply because the said copies were not found or are presumed not to have been found, would have been to carry zeal in argument too far.

If, on the other hand, the warrant for Cutting's arrest specified merely the crime committed in Texas and not its continuation in Mexico, this is explained in the sentence, and implies nothing peculiar in the matter of judicial procedure in this country. I do not believe I should insist on answering these allegations, passing as they are, and which should not figure in a discussion like the present. It is undeniable that the court based its jurisdiction not merely upon the formation of the libel in Texas, but also upon the circulation of the same in Chihuahua; and if it be alleged that the first basis of the above hypothesis can not be sustained, the same can not be said of the second basis, whose existence is unquestioned save in the event of the doubt advanced, by no means admitted, that the printed copy began to circulate in Mexican territory.

In order to understand that, naturally, the libel must have, from the first, circulated in Paso del Norte, it is sufficient to note that that town and El Paso, Texas, are in close contact, forming almost one town, and that Cutting did not write his insults against Medina especially for the public of the latter place, who did not know the insulted party, but for the public of Paso del Norte, where he was well known among his countrymen.

The other bases of the claim for damages consist of a series of charges touching the treatment Cutting received during his prison term and at the time of his trial, charges which had been only partially advanced up to the present, and of which the Government of this Republic had not been informed. I can not refrain here from quoting, because my attention is drawn to it, the contents of your note bearing upon this point.

"Mr. Bayard," says your note, "demanded the release of Cutting on the grounds—

"First. That the judicial tribunals of Mexico were not competent, etc., relative to the point of jurisdiction, which we will hereafter discuss.

"Second. Because the sanctions of justice which all civilized nations hold in common, had been violated by his treatment (that given to Cutting).

"Among those sanctions, it was stated," so your copy gives it, "are the right of having the facts on which the charge of guilt was made examined by an impartial court, the explanation to the accused of these facts, the opportunity granted to him of counsel, such delay as is necessary to prepare his case, permission, in all cases not capital, to go at large on bail till trial, the due production, under oath, of all evidence prejudicing the accused, giving him the right to cross-examination, the right to produce his own evidence in exculpation, release even from temporary imprisonment in all cases where the charge is simply one of threatened breach of the peace, and when due security to keep the peace is tendered."

This extract from your note, which appears to have been taken from another addressed by Mr. Bayard to Mr. Jackson, at that time United States minister in Mexico, and published subsequent to the occurrences, embraces statements whose application to the merits of the case is not understood, and various charges touching violation of rights concerning which the Mexican Government had not been advised, either to the effect that a remedy be applied or that the liberation of Cutting be insisted upon. In connection with this latter idea, if, as you say, the honorable Secretary of State demanded the release of the prisoner on the grounds set forth, I take it that they are the reasons which induced him to take the step he did, and not those advanced to this Government at the time that the request was formulated. For it is well known that no reasons were given, save those expressed by Mr. Jackson, in the short telegram in which his superior instructed him to demand the instant release of that citizen of the United States illegally imprisoned as the message read. The grounds for such a demand we have afterwards ascertained, inferring them from conversations had with our representative in Washington or from publications issued there for the information of the United States Congress.

Returning to the charges made up to the present of the supposed ill-treatment given to Cutting, I recall that naught was said to us about the same, save in a note addressed to me by the aforesaid Mr. Jackson on July 6, 1886. That note stated that Cutting was in jail, in a filthy and unwholesome place, where there were eight or ten other prison-

ers; that he was not allowed to give bail, and that the consul was not permitted to appear for him, in virtue of which, as his health was in jeopardy, Mr. Jackson asked that the situation of the prisoner be at once alleviated.

Answer was made to this to the effect that the Chihuahua government was instructed (as in effect it was) to administer prompt and due justice, and to apply remedial measures to the condition of the prisoner, granting him all the law would allow. Between what the minister of the United States at that time stated and what is now said there is some difference, for Mr. Jackson did not specify that means of defense were withheld from the claimant, Cutting, and that counsel was denied him when asked for; that the proofs against him were not explained, and that bail was refused him, all of which are now advanced in support of the claim for damages. This is an omission of transcendental importance, for if all ulterior recourses had not been resorted to then, nor had there been any complaint to the Government of the nation, the same could not be held responsible for the abuse committed, to the extent of demanding an indemnity for wrongs attributable to local authorities.

It will not be necessary, however, to give weight to this consideration, in view of the leading idea that all the charges concerning ill-treatment of the prisoner and the refusal to him of legal means of defense are wholly gratuitous and slanderous, the work of the mere imagination and malice of Cutting, who, from the start, inspired by the attitude of the consul, Brigham, refused every title of defense, alleging that he depended solely upon his consul and his Government. The said consul denied the possibility of any judicial procedure in Mexico for any act of any kind whatsoever committed in the United States; that is, every species of extraterritorial jurisdiction. And upon that blind belief, upon that error which went beyond even the principles set forth in Mr. Moore's memorial, upon that confidence in his own judicial knowledge, without the necessary study of the legislation of this country, Mr. Brigham predicated his opposition to all procedure. He therefore, in the name of the Government of the United States, which he claimed to represent in Paso del Norte, entered his opposition, forgetting that the good offices permissible in a consul are far from being the functions of representatives and diplomats.

On his part, Cutting, finding himself supported, thus readily recognized at once the advantage he might secure in the way of a future claim for his supposed sufferings and for his voluntary or apparent lack of defense. Therefore, though at first he appointed Attorney José M. Barajas to defend him, afterwards, having consulted with the consul, he did not wish to avail himself of the services of that lawyer, nor would he select any other, and the judge found himself obliged to appoint one to defend the prisoner. Neither did he request liberty under bail, and even expressly refused it when it was offered to him by order of the superior court of Chihuahua, ever shutting himself up in the one invariable reply to every overture, "that he depended alone upon his consul, and would only accept absolute liberty." He and his consul, actuated by different motives it appears, did not even wish to discuss the lack of jurisdiction which they alleged, as if even the act of refusing to recognize the jurisdiction of a court did not involve the employment of legal measures, the explanation of reasons to the accused, and the final sentence of the tribunal.

The fact that the conduct of both was as above indicated, and that the alleged lack of means of defense was the creation of Cutting's malicious caprice, is demonstrated in the report accompanying this note, rendered by the judge or justice Castañeda. This report was not previously forwarded to your Government, because, as I have already said, the accusations now alleged in detail against the procedure of the said judge were not then thoroughly known, and besides the discussion in those days took a very different drift.

That report, drawn up in accordance with the facts as established in the court, contains a summary of all the occurrences, and gives the reasons more or less poorly expressed, but true at the core, that induced the judge to refuse to officially inform the consul touching the procedure in the case, as he seemed determined to know, as though he were some functionary who by international right or by some convention was authorized to interfere in judicial proceedings. The same document states that from the commencement Cutting was informed of the accusation and charges against him, who the accusing party was, and that he could designate counsel for the defense, which, as I before stated, he did at the time. It is also seen therein that the judge tried to and did place him in the most commodious (or if you please the least incommodious cell), which was the healthiest of all in the jail, foreseeing that being a foreigner he might make complaint touching this matter. It is also on record that the prisoner having once appealed to his consul, inspired by the latter, did not wish to answer any questions, or if he consented to answer would not place his signature thereto, claiming to be under the exclusive jurisdiction of his consul and of his Government in Washington, practically self extraterritorialized. It appears then, finally, that he not only did not request release under bail, but refused the same when it was offered to him.

With regard to the pretended cruelties inflicted upon Cutting in the jail, I should state that they were at the time satisfactorily denied by the report which I have just dealt with and in other ways. Among the latter is included the published telegram sent me on July 23, 1886, by Consul Escabor y Armendariz, which, after stating that Cutting had refused release under bail as decreed by the superior tribunal, goes on to say: "A window has been ordered to be opened in the room occupied by the prisoner, and that he be paid for living expenses 50 cents a day in place of the 10 cents allotted to the other prisoners." The facts witnessed by the consul himself, whose residence is in Paso del Norte and El Paso, prove that if any distinction at all was made between Cutting and the other prisoners it was in benefit of the former. Now, all that can be demanded of any country whatsoever is that it shall not in similar circumstances subject foreigners to greater inconveniences than the people of that country itself; nor may it be required to have for foreigners better prisons than for its own citizens or subjects.

Supposing there were specially improved prison quarters assigned to foreigners, many of them, especially men like Cutting, would find even these inconvenient and even dangerous to their health. A short time since a Mexican ex-army officer named Rafael Pinal was imprisoned in Laredo, Texas, and complaint was made to this department that he was shut up in a kind of an iron cage, cold and unhealthy, and that bad food was given to him. The facts were investigated, and it was ascertained that he was occupying the same jail with all the rest of the prisoners, and that the same food was imparted to all. Consequently the Mexican Government withdrew the complaint it had formulated to your Government at Washington, convinced that there was no reason for demanding special favors for foreigners.

I can not proceed without calling attention to two marked objections made by the Hon. Mr. Bayard against the sentence by Judge Zubia, which had decided the case. To that end I will translate the words relevant thereto from the instructions which you were pleased to communicate to me, in order that you may judge whether I give them their true meaning:

"It has been seen," says the Secretary of State, "that article 186 of the Mexican penal code requires that the offenses included in the article must be also punishable in the place of their commission; and the proceedings before Judge Zubia, as set forth in his decision, show that the Texas penal code was introduced in the trial to prove that Mr. Cutting had committed the offense of libel in Texas. With this code before him Judge Zubia held that its provisions had been violated. Thus sitting as a Mexican magistrate, he did what no Texas judge could have done had Mr. Cutting been on trial in that State for the alleged offense against its laws.

"By the Texas code (sec. 2291) it is no offense to publish true statements of facts as to the qualification of any person for any occupation, profession, or trade.

"Nor is it shown that Judge Zubia even attempted to inquire as to the truth of Mr. Cutting's alleged libelous statements."

Such is the first objection to which I refer. I will here notice that the provision of the Texas code on which this is based is found, with some modification, in the code of Chihuahua and Mexico (article 613, sec. 2) as well as in various other penal codes. In short, the qualification, be it ever so unfavorable, made concerning the competency of any person for any occupation or trade does not, when based on fact, constitute an offense, at least according to Mexican legislation, when it is made from a sense of duty or in benefit of the public. If this had been the question, Judge Zubia would have had to investigate whether or no such circumstances combined in the manifest published against Medina by Cutting. But this was not the question; and, of a truth, at the time that the objection was formulated it seems that the injurious words of the latter against the former had been overlooked.

Here they are literally as their author published them:

"EL PASO, TEXAS, *June* 18, 1886.

"In a late issue of El Centinela, published in Paso del No.te, Mexico (dijo Cutting, said Cutting), I made the assertion that Emigdio Medina was a fraud, and that the Spanish newspaper he proposed to issue in Paso del Norte was a scheme *to swindle* advertisers, etc. Now, I do hereby reiterate my original assertion that said Medina is a 'fraud,' and add 'dead-beat' to the same; also that his taking advantage of the Mexican law and forcing me to a 'reconciliation' was contemptible and cowardly, and in keeping with the *odorous* reputation of said Medina." (Congressional Record, page 8401.)

Neither do the vulgar or *slang* expressions "a fraud" and a "dead-beat," applied to any man, the second of which is clearly defined in Webster's Dictionary, nor the calling of that man the originator of a scheme to swindle (*autor de un proyecto para estafar*), nor characterizing his reputation as *odorous* in the sense of bad smelling (*mal oliente*), constitute a qualification of unfitness or lack of competency for any occupation, but rather

do they tend to wound his moral reputation independent of any profession or trade. The basis, therefore, of the argument against Judge Zubia falls to ground.

The other objection urged against his conduct is framed in these words:

"By the fundamental law of the State (Texas) no judge can convict any person of libel, for section 6, article 1, of the constitution of Texas provides that 'in all indictments for libels the *jury* shall have the right to determine the law and the facts, under the direction of the court, as in other cases.'

"These provisions render it wholly unwarrantable for any judge, domestic or foreign, alone to decide that a person has committed a libel under the law in Texas."

This objection appears also to rest upon an oversight. The one hundred and eighty-sixth article of the Chihuahua code does not require that the law of the place in which a criminal act is committed shall be applicable, in point of procedure, or of the species of tribunal to be selected to pass upon the facts or the law itself, but merely requires that the said law shall be consulted to learn whether or no it designates any penalty for said criminal act; and that, when once put into play, foreign legislation can not interfere with the jurisdiction of the courts of the country, save exclusively in the manner in which that legislation may be affected by the law of the land. As this point is sufficiently clear, there is no necessity for insisting upon it.

I now intend to reply to the second point of your note, which proposes that Mexico modify the one hundred and eighty-sixth article of the penal code of Chihuahua and other States, as the same is contrary, so it is alleged, to international right, and because thus will be removed obstacles which might disturb the good relations between the two countries. But prior to entering upon this question I should reassert the thesis I have sustained up to present, and which, in the name of the Mexican Government, I continue to sustain. That thesis embraces the proposition that extraterritorial jurisdiction, as set forth in the aforesaid article, for the trial of foreigners charged with offenses committed outside of the Republic against Mexicans, within the limitations therein specified, is by no means antagonistic to international law. I have not endeavored to prove, what need not of necessity be proved, that the interpretation or solution given to extraterritorial jurisdiction in that article is precisely the most correct of all interpretations idealized, nor that in its entirety it is in consonance with the meaning placed thereon by the majority of civilized nations. It suffices for my purpose that the article in question does not impugn the unquestioned and universally admitted principles recognized by the said nations; it suffices, therefore, in view thereof, that Mexico is not obliged to modify her legislation upon this disputed point.

When in July, 1886, the case of Cutting was under discussion it seemed to me that the theory advanced by the State Department in Washington was based solely upon *common law*, which teaches that all jurisdiction is purely territorial and in no case personal, either over the person of the offending or the offended party. I inferred the above from various reports and data furnished to me and from the general line of statements with which Mr. Bayard, in accord with Mr. Brigham, defined his own position in the documents published at that time (Report of the Department of State, Congress. Rec., p. 8400, and annex No. 1, p. 8401). In order to demonstrate that that doctrine, venerable though it might be, did not lie at the base of the mass or the multitude of known codes of legislation, and that even, occasionally, it was set aside in England as well as in the United States, nations bound by *common law*, I made several quotations which I deemed pertinent, and sent to Mr. Romero a list of codes of various nations, nearly all in force, which had upheld extraterritorial jurisdiction as applied in certain cases to the trial of native citizens or subjects, and in other cases even to that of foreigners who, after the perpetration of those offenses, might happen to be found within the territory of the nation whose laws had been thus violated.

Nevertheless, in the words of the Secretary of State quoted by yourself, as well as in the report of Mr. Moore, delivered to me, I find the natural admission of jurisdiction over native citizens or subjects who commit an offense abroad against their own country, but that jurisdiction is there denied in the case of foreigners in similar circumstances, unless the latter commit certain offenses against the interested nation, such as an attempt against its autonomy or the counterfeiting of the coin of the realm or the paper of its banks. This, in effect, is what is met with in the majority of legislations in force; and as it is but the minority which extends that jurisdiction to embrace the punishment of offenses committed in foreign lands by a foreigner against private subjects of the offended country, as our one hundred and eighty-sixth article provides, the conclusion is arrived at that the said article is in opposition to international law, and therefore it is claimed that Mexico is bound to modify that article.

It will be hardly necessary to recall that international law, as binding upon all nations, includes but few principles upon which they unanimously agree, and that there are an infinite variety of doctrines which have been and will ever be discussed pending the final sanction placed thereon by civilized peoples. Meanwhile each nation is at liberty to select either extreme of interpretation offered in those doctrines or some common

mean upon which their judgment may agree. No one denies that the individual legislation of each state does not establish any international obligations; and while the decision of that state upon any specific point tends to make apparent the existence of some right, generally observed among the nations, that right is not binding (except when the states interested in some manner recognize such obligation) save upon the states which have engaged to observe it. From the time of Grotius (De Jure Belli et Pacis, book 2, chap. 8, § 2) these ideas have been admitted without controversy; and, in the course of this note, we will see that not even a declared mandate issuing from an express convention of almost every civilized power carries with it a force binding upon those who do not accept that convention, as the Government of the United States itself has testified with its acts.

The important point in our case is to know that the great majority of nations has recognized extraterritorial jurisdiction, it being a matter of free volition on the part of each nation to determine how far each may carry the idea, provided always that the extent of the scope thus allowed has not been specifically condemned by the generality of the other states as being contrary to the principles which should govern their mutual relations. I speak of specific condemnations and not of the adoption of other solutions or medium grounds assumed for seeming preference.

Now, the special jurisdiction to which I confine myself, *i. e.*, that set forth in the one hundred and eighty-sixth article, to which I refer, with its concomitant limitations, has not up to the present suffered that universal condemnation, nor has it been thus stigmatized by any authority of acknowledged note, not even by those quoted by Mr. Moore, and to which, in your note, you call my attention.

In demonstration I will examine only six or seven of those authorities you quote, and in order to avoid diffusiveness, will but briefly touch upon the others, as that will suffice for my purpose.

Heffter is one of the first, and he says as follows: "Penal law is at once *territorial* and *personal*." He explains when either character of penal law prevails, and adds that authors are far from agreeing upon what he prescribes touching the second (or personal) characteristic of that law. He then continues: "The majority of criminal codes go even further, and authorizes procedure against foreigners who have been guilty, outside of the territory of a country, of crimes attempted against the safety of the state and its fundamental institutions. Formerly the courts were admitted to be competent for the punishment of crimes which the interests of humanity considered punishable, in any place whatsoever that the same were perpetrated, provided the criminals had not been already tried. The spirit manifested in the framing of these provisions is highly commendable, specifying as they do that each state is under obligations to lend its contingent toward the suppression of crimes no matter where committed. Nevertheless, as long as penal enactments continue to present essential differences, their application to cases unborn under their sway will always meet with serious obstructions." (International law, public, § 36.) While Mr. Moore quotes a text somewhat different, taken from the fourth German edition, I quote from the fourth French edition, in accord with the seventh German, both prints of 1883, edited and commented by Geffcken.

What I have above quoted does not condemn the idea of extraterritoriality, in question, as being contrary to international right, but refers to obstacles that may hinder their application, *in extenso*, to all offenses, even those of foreigners against foreigners, without specifically mentioning the corrective tendencies of the article I now advocate and which tendencies I will consider later on. Heffter does not there touch upon the special question of offenses committed abroad by foreigners against natives of any country. On the other hand, in the fourth note of the quoted passage, Heffter says: "There exists among authorities always a wide difference of opinion on this thorny subject" (sur cette matière épineuse).

As we will see later on, Fiore does not regard this question as being authoritatively settled by international usage. He calls it a question of much controversy, and says that it involves serious problems. In the lengthy extract from his Droit International Privé, quoted in Mr. Moore's memorial, Fiore confines himself merely to combating a doctrine of Pinheiro-Ferreira, which presents an exaggerated idea of the right of one country to adjudge and punish an offending foreigner committing such offense abroad. From his Droit Pénal International, in which he dwells in detail on the question, I copy but the following: "We can not admit that doctrine" (of extraterritoriality based upon the right of protection), "for it does not seem to us that the extraterritoriality of penal law ought to depend on the quality of the person to the prejudice of whom the offense has been committed."

It would consume much time to explain the system followed by Fiore. But, in order that it may be understood that the same does not antagonize or condemn the punishment of a foreigner where he offends a citizen or subject of one country in another country, it is only necessary to produce the following passage from the same work (§ 66): "We conclude by saying that in our judgment no difference should be made between a

foreigner and a native in the exercise of jurisdiction, even in penal law. * * * We should, therefore, admit the right to punish every individual without distinction, *be he foreigner or native, when he, by acts committed abroad*, may have transgressed the laws that sustain our institutions, or *may have violated the rights* either of a state or *those of the persons protected by our laws.*" It is true that, in order to avoid certain difficulties, he afterwards limits that right of punishment to determined cases; but that is because he considers that the process of extradition is thereby extended, and made binding in all possible contingencies, to a degree that the government of the offending party finds itself obliged to request or accept the delivery thereto for punishment of the offending party, a system as yet almost unknown in practice. He thus explains it at the close of Chapter III (No. 84), and in the second part of his work.

Respecting the other publicists cited by Mr. Moore, it can be affirmed, in view of what he quotes from them, that none of them are very pronounced in their manner of treatment of the case, except Bar, whose principal arguments we will discuss later on, excepting also the American writers Woolsey and Wharton, to whose shining theories I will allude at length.

Phillimore refers to what Felix remarks concerning the general provisions of positive legislation, and cites an opinion of Bartolus touching the process of law applicable to an offending foreigner in a foreign state. Wheaton, without ventilating the question under discussion, explains also (with requisite detail) the general procedure followed, and approves the same in a laconic manner.

Hall, as he is quoted in the memorial, says that "the theory of the nonterritoriality of crime is not unquestionably at present accepted either universally or so generally as to be in a sense authoritative," by which, far from declaring it as condemned beyond question, he admits that the principle has many adherents and a respectable foundation; for, otherwise in claiming that it is in no sense authoritative, it would become what is styled in English a truism (una verdad evidente de sobra).

The quotation from Story, without committing itself to any specific opinion, explains the theory of common law, and concludes by alluding to the different doctrines of Hertius and of Voët. It says: "He, as well as some others of the foreign jurists, enters into elaborate discussions of the question, whether, if a foreign fugitive criminal is arrested in another country, he is to be punished according to the law of his domicile or according to the law of the place where the crime was committed." He adds: "If any nation should suffer its own courts to entertain jurisdiction of offenses committed by foreigners in foreign countries, the rule of Bartolus would seem to furnish the true answer: *Delicta puniuntur juxta mores loci commissi delicti, et non loci ubi de crimine cognoscitur.*" With which, far from declaring extraterritorial jurisdiction as being opposed to public rights, he supposes the possibility of applying that jurisdiction to all crimes committed abroad by foreigners, even those which do not attack the interests of the State, or of its citizens or subjects; and he is only of the opinion that in such cases the law *loci commissi delicti* should be applied according to the rule of Bartolus; that is, under the ordinances of the Prussian penal code.

Mr. Field, according to his own statement, confines himself to the proposal in the six hundred and forty-third article of the international code, which he designed, of the provisions taken from the French criminal code.

Pradier-Fodéré, in the extract quoted by Mr. Moore, merely gives some reasons in support of extraterritorial jurisdiction which we are now treating and before proceeding to set forth reasons opposed thereto, he says: "These observations are certainly entitled to weight, but they can not prevail against considerations which are not less weighty." It is evident that a theory in the defense of which that writer finds *weighty considerations* has not by him been condemned as being opposed to recognized international law.

With respect to the distinguished American jurist, Theodore Woolsey, Mr. Moore can not, despite his able efforts, succeed in changing the sense of this passage: "From this exposition it is evident (1) that states are far from universally admitting the territoriality of crime. (2) That those who go farthest in carrying out this principle depart from it in some cases. To this we may add (3) that the principle is not founded on reason, and (4) that as intercourse grows closer in the world nations will the more readily aid general justice." (Introduction to the Study of International Law, fourth edition, § 78.)

If President Woolsey elsewhere (§ 20a) criticises the tendency of punishing every offense committed outside of the bounds of the state in any case, even when it does not affect the interests of the state, as happens when the victim is a foreigner, that by no manner of means implies a modification of his former assertion, nor, much less, does it declare as contrary to international right the punishment under certain conditions of a foreigner who offends in a foreign country the citizens or subjects of a state and then goes to that state.

With regard to Dr. Francis Wharton, I am unable to comprehend why Mr. Moore

cited that author in support of his pretension, unless it be because he wished him to appear in the defense of the Department of State, for the jurist bears the title and has exercised or discharged and now performs the functions of solicitor or legal adviser of the Department. Mr. Moore quotes from that distinguished author a certain passage taken from the work entitled "Conflict of Laws," second edition of 1881. There the author, without questioning their exactitude, defines some difficulties which may beset the theory that a sovereign, by virtue of the right to protect his subjects, is at liberty to exercise jurisdictional powers in the punishment of any one who may offend his subjects abroad. No one can deny that penal jurisdiction, when it is illimitable (for instance in the case where the act is not punishable in the place of its commission), presents various objections, as are also suggested by the doctrine which upholds the absolute territoriality of punishment. Be that as it may, the passage quoted by no means bars the possibility that Dr. Wharton, before and after the year 1881, expressed the most decided and cogent reasons in favor of extraterritorial jurisdiction for the punishment of foreigners who offend the subjects or citizens of a state.

The proof is found in his book, Treatise on Criminal Law, ninth edition, of 1885, in which, in a long foot-note to section 284, he says, as follows:

"The several theories of criminal jurisdiction may be classified as follows:

"I. *Subjective*, or those based on the conditions of the offender.

"(1) *Universality of jurisdiction*, which assumes that every state has jurisdiction of all crimes against either itself or other states by all persons at all places. This theory has few advocates in England or the United States. It has, however, the high authority of Taney, Chief Justice, who said in Holmes *vs.* Jennison (14 Peters, 540, 568, 596), that the States of the Union may, if they think proper, in order to deter offenders from other countries from coming among them, make crimes committed elsewhere punishable in their courts, if the guilty party shall be found within their jurisdiction."

Before following up the quotation from Dr. Wharton I should note that that theory he designates as universality of jurisdiction, and which is supported by the decision of no less a distinguished authority than Chief-Justice Taney, advances far beyond the limitations on which rest the foundations of the one hundred and eighty-sixth article, under discussion, which does not pretend to visit universal punishment upon offenses committed abroad, but simply and under certain conditions deals with those who may offend Mexicans.

In explanation of the theory of jurisdiction, which he calls subjective, Dr. Wharton continues:

"(2) *Territorial jurisdiction*, which assumes that each state has cognizance of all offenses when the offender at the time of the offense was on its territory, but that it has jurisdiction of no other offenses."

This has been the prevalent English and American theory.

"II. *Objective* (jurisdiction), which assumes that each state has jurisdiction of all offenses which assail its rights *or the rights of its subjects*, no matter where the offender was at the time of the commission of the offense.

"This view, which appears to be the one best calculated to reconcile our adjudications *on the vexed question* before us, I have discussed at some length in the Southern Law Review for December, 1878 (vol. 4, p. 676). From this article I condense the following:

"The *real* theory of jurisdiction, as it is called by its advocates, rests, as has been seen, on the objective rather than on the subjective side of crime. *Jurisdiction is acquired not because the criminal was at the time of the crime within the territory of the offended sovereign, nor because he was at the time a subject of such sovereign, but because his offense was against the rights of that sovereign or of his subjects. We punish all who offend on our own soil because our duty is to attach to crime committed within our borders its retribution. But in addition to this, we must punish when we obtain control over the person of the offender, offenses committed abroad by either subject or foreigner against our own rights.*"

This will suffice for the present; later on I will again employ the opinions of Dr. Wharton in the defense of the real or objective phase of jurisdiction when I engage directly in the vindication of the disputed article and endeavor to demonstrate that it is based upon a respectable scientific theory. For the present I merely wished to prove that the distinguished jurist does not condemn the theory of which I speak as being contrary to the rights of man. How could he condemn that theory in any manner whatsoever when he defends it in such a masterly way, as is evident in his work above quoted?

None of the authorities you quote, nor any others acknowledged as such, nor even those who adopt, in a question so serious, a theory opposed to that held by Dr. Wharton, and the opinion, even more advanced, of Chief-Justice Taney, at all condemn the theory I advocate. The only one among the many cited by Mr. Moore who ventures to assume so much is Mr. Réquier, reporter of the court of cassation of France, who, in the case of Raymond Fornage, said in effect: "The law can not give to the

French tribunals the power to judge foreigners for crimes or misdemeanors committed outside of the territory of France; that exorbitant jurisdiction would constitute a violation of international law," etc. Such a radical opinion was not adopted by the said court, however much Mr. Moore may insinuate it. The court of cassation declared incompetent the tribunals of France, giving as a reason that the law of the land did not warrant them in trying the case, which would have sufficed to base the decision. But when, with greater detail, the court insisted that the right of punishment emanated from sovereignty which did not go beyond French territory, appearing thus to confirm the theories of its reporter (Réquier), those conclusions being unnecessary for the solution of that particular case, could well be styled *obiter dicta*, and therefore without force of application in that sentence. Be that as it may, neither in those conclusions, nor, much less, among the essential groundwork, or in the dispositive part of the sentence itself, is it declared that any opinion more favorable to extraterritorial jurisdiction than that of Mr. Réquier would be contrary to the rights of men. (See the text of the sentence in the Appendix of Mr. Moore's Memorial.)

That court of cassation could not have declared anything else, in view of the fact that when appealed to by the (French) Government touching the question of jurisdiction, not as applicable to the law in force, but to the principles of public right for the modification of French legislation, in 1845 it delivered an opinion in the following decisive language: "It is true that the right to punish, in the name of French law, can nowhere be exercised save in France; what is an error is that the punishable act can not in any case be governed by this law." This conclusively condemns the absolute territoriality of criminal jurisdiction, distinguishing between the right of a nation to punish crimes committed abroad and the moral or physical possibility of applying punishment while the offender is found within the territory of another state; a most important distinction is this, for, as one leading criminal jurist observes, the confusion of those two ideas produces in great part the unnatural adhesion of many to the territoriality of punishment. In this connection, and in order that it may be shown that the extension of the power to punish to the limits assigned in Mexican legislation has had, in France, the preponderance of support from acknowledged savants, before events of a political character or of a cast foreign to the judicial phases of the question rose to suffocate the opinions of the masters in jurisprudence, I will now quote some extracts from the eminent Swiss jurist, Mr. Charles Brocher. After using the foregoing decision of the court of cassation, he says: "Some twenty-four appellate courts and six faculties of law (in France) decided in a similar manner. A commission was charged in 1849 with the preparation of a new report, the propositions of which were adopted by the legislative institute in 1852. That report clothed the French sovereign in a general manner with the faculty to punish crimes committed abroad against a Frenchman, provided always that the offender should take refuge in the territory of France. As this proposition provoked claims on the part of England, the Government withdrew the bill before the senate could adopt it." (Étude sur les conflits de législation en matière pénale. Revue de Droit International, Vol. 7.)

It is thus seen that, on that occasion, opinion in France was wholly favorable to an extension, beyond the limits authorized by its laws, of the jurisdiction called extraterritorial, and that the Government, solely for reasons foreign to the judicial phase of the question (as is established by other historic data), solely on account of considerations connected with its foreign policy, withdrew the proposed measure, thus leaving it unsanctioned as a law.

This evidences that the question is not finally settled in the French nation, even while its present legislation is limited to the punishment, in the case I refer to, of certain specified offenses. On the other hand, it is difficult to understand why so many distinguished jurists and magistrates of experience and learning should not only disagree in the matter to which I allude (which was possible), but should even adopt opinions opposed to the well-known principles of international law.

Let us now speak of other nations. The memorial of Mr. Moore gives great preference to the penal code of the German Empire, a code that restrained the legislation of various Germanic states in their favorable leanings towards extraterritorial jurisdiction. This induces me to make two brief observations. In the first place, scarcely had that code been sanctioned and put into practice throughout the entire empire by the law of May 15, 1872, before it became the object of many controversies, and attempts were made to modify it, and partial modifications were indeed made in 1876. Among the proposed amendments sought to be ingrafted on the measure was one which provided that foreigners who had committed offenses and crimes abroad against German subjects should be placed at the disposition of the tribunals of the Empire. "The Reichstag, it was said, did not believe that the time had come for recasting the difficult theory of the application of penal law, and only adopted those new measures the necessity of which was apparent under the circumstances." (Annuaire de Législation Étrangère, 1877, p. 139.)

That is to say, that not even in Germany, under the present code, has opinion been

modified in this respect, and the tendency still prevails to amplify its foreign criminal jurisdiction beyond its actual limits, perhaps beyond even the limits of Mexican legislation, which itself has some important curtailments. That is to say, that the theory of widest application of extraterritorial jurisdiction, and which appertained to the various German codes substituted by the code of the empire, has not as yet been extirpated from that nation as being opposed to international law, which is founded upon reason rather than upon written law.

Apropos of the German code, it will not be inopportune to quote here some opinions from an able study relative thereto published in a French review. After stating that said code declares the competency of the tribunals of the empire to try a mass of crimes committed by Germans outside of the bounds of their territory, it goes on to say: "Foreigners, on the contrary, can not be prosecuted on account of the offenses they may commit abroad, save in the event of high treason against the German Empire or against any of its states, or for the crime of counterfeiting money. * * * There is, in this regard, in the penal code we are considering an omission, with the result that the interests of German subjects abroad are not sufficiently protected by German law, and that the author of the crime or offense committed abroad against those same interests may, provided he is not a German, find refuge in German territory, and can not there be prosecuted. * * * The protection which the state owes to all the members of the nation, either at home or abroad, will be incomplete if the laws of the land are impotent to strike within its own territory the foreigner who may, outside of its bounds, have committed an offense against a subject. The circumstance that said offending party may not be subject to the penal law of the state will produce disturbance and inquietude in society." (Étude sur le Code Pénal d' Allemagne; Revue de Droit Pratique, 1874.) These extracts convey an idea of the class of objections which, in the line of difficulties indicated, have been raised against the penal code of Germany.

With respect to Italy, it should be observed, first, that Mr. Moore, in the list of codes which he gives (page 87) takes it for granted that there is but one (of the year 1859) still in force, and substantially the same as the Austrian code. The fact is there are two codes still in force in that kingdom, that of Sardinia, of the year referred to, and that of Tuscany, which is observed in what was the grand duchy of that name. Under the latter code alike every subject or *civis* who offends abroad against a subject is punishable (Articles IV and V, § 2), moderating somewhat the penalty for an offense committed outside of Tuscany, and in such cases requiring that the offense be punishable in the place of its commission (Article IV, § 2, and Article VI). The texts of the works of Fiore, Nos. 210 and 211, may be consulted, and the coincidence of that European code with the Mexican will become apparent. I am not surprised that Mr. Moore should have made a mistake in this matter, for Fiore himself, in his General Résumé of Legislations (No. 193), says that, having consulted among other American codes for the Mexican code of 1872, he failed to discover therein any provision relative to offenses committed abroad; that is to say, he failed to find any such in the Chihuahua code, which embraces the one hundred and eighty-sixth article, so strongly combated to-day by reason of those provisions.

With respect to the new Italian penal code, not yet in force, whose first book was approved in 1876 by the Chamber of Deputies, I have on another occasion intimated that it contains provisions quite similar to those of the one hundred and eighty-sixth article of our code. And if the new Italian code has not as yet been adopted, it does not appear, as is given out, that it is because objections are made to the above-approved theory, but on account of other considerations, especially those touching capital punishment, which is opposed in Tuscany.

Not alone in that proposed code, but in the three distinct and well-studied codes which preceded it since their initiation in 1868, ultraterritorial jurisdiction, of which we now treat, had been established in the case of foreigners offending subjects abroad.

Fiore relates it thus: "As regards foreigners who may, beyond our frontiers, have committed an offense against one of our citizens, the four codes admitted the right to punish the guilty party in case he were found in our territory." (Ibidem, No. 176.) This uniformity of opinion in four distinct codes clearly demonstrates what has been the dominant opinion in Italy touching the matter under treatment, even though that opinion has not up to the present been converted into a law.

Without pretending to summon in review all or even many of the European powers whose writers and jurists, if not actual legislations, carry the idea of territorial jurisdiction beyond the arbitrary bounds assigned thereto, I will speak briefly of Spain, to whose positive law Mr. Moore refers as restringent under the most generally accepted idea of that class of jurisdiction. Among the authorities who have designated what has been the legal acceptance of that jurisdiction in Spain I will first quote Riquelme, the foremost Spanish writer on international law: "In the second case thus he explains himself; that is to say, when a foreigner comes to reside in a country, after having committed an offense against that country or against one of its subjects, * * * the situation changes, because that foreigner has not trespassed upon the laws of the land

being therein; he has done evil to the state or to its subjects or citizens, but not subsequent to the acquirement on his part of an obligation to respect that state, for this duty begins to operate at the time of the entrance of that foreigner in said State, and not before."

"Still, despite the difference between this and the prior case, the opinion of the best jurists agrees that not only is the prosecution of the foreigner justifiable, but that there is even ground, in certain circumstances, to require the extradition of the criminal. This theory is based upon the unquestioned duty which impels every society to its own self-defense and to the prosecution of all who attack its existence, as well as the unavoidable obligations to protect its subjects. From these duties and obligations, which are the essence of laws, is derived the right to visit punishment upon all who make any attempt upon the safety of the state or of its subjects or citizens, and this guaranty of society would, in many cases, be rendered ineffectual if the territorial limitations of jurisdiction were so vigorously insisted upon as to preclude the chance of trying no one save he who might trespass upon the laws within the territory of the country in which such laws operate." (Elements of Public International Law, by Don Antonio Riquelme, book 2, title 2, chapter 2.)

Señor Don Alejandro Groizard, a distinguished legislator and diplomat, in his address on the occasion of his reception in the Academy of Moral and Political Science in Madrid, in the year 1885, employed this language: "If the nature of the offender is and should be the fountain from which extraterritoriality springs, the nature of the offended party should be likewise. In the former case the sanction embraces the guilty party. * * * In the second case the nature of the offended party. The law makes its force felt upon the criminal as a consequence of the protection it offers everywhere to all who live under the shelter of its flag. The principle extends even to foreigners, for it can not be conceived that its protective law would permit those who had been guilty of an offense against a subject to come within its circle of action to offend it anew with their presence and their impunity." This will suffice to show that the opinion of distinguished specialists in Spain is further advanced in the point of the extraterritoriality of criminal jurisdiction than the legislation there in force, and that, therefore, the question can not be considered as being definitely decided in the Spanish nation.

All of this, in my judgment, demonstrates that the problem concerning the limitations which that jurisdiction called by some quasi-territorial, that which is asserted in the said article 186, even in the nations whose legislation does not admit the possibility of such jurisdiction, or admits it only under certain conditions, can not be said to be settled in a final and conclusive manner to the extent that its solution may constitute an axiom of international law. Now, if it is not a universally-recognized axiom that every step taken beyond the limits assigned in this matter by the majority of legislations violates the rights of other people, I can not understand why a state which takes that step—above all if it be accompanied by other states—should be obliged to retrocede, and to confess, against its convictions, that it has erred in its march. If it were necessary that each and every law in debatable matters of international usage should be moulded in conformity with the legislation of the majority of other countries, the least progress would become impossible without holding a convention among the majority of the nations; a proceeding little less than impossible.

In final proof that the question of the jurisdictional limits of a country is far from being satisfactorily settled, on account of the sole fact that the majority of states does not concede thereto the scope allowed by Mexico, I will merely quote here some extracts from Fiore, an author whom I have thus repeatedly quoted because Mr. Moore has given him such preference, in view of the fact set forth in his memorial that Fiore recognizes the usual limits of express jurisdiction, even while enlarging, on the other hand, the sphere of extradition.

"The difference of opinions," says that notable writer, "commences to be apparent when the attempt is made to decide in what sense penal law should be considered as exclusively territorial. Should it be admitted that every criminal act committed beyond the frontier may elude the touch of this law, or that the law is applicable to individuals who, after committing *délits* on a foreign soil, have entered and resided in the territory of that violated law?

"In the solution of this serious question there exist not only great differences of opinion among writers, but even among the systems of positive legislation. * * * The majority of writers are of the opinion that in principle the operation of penal law can not, in an absolute manner, be confined to the territorial limits of a state. * * * But when cases arise in which the extraterritorial authority of penal law should be admitted—that is, under the condition of the application of national law to offenses committed abroad—then the question presents real difficulties.

"We propose," he continues, "to discuss this disputed point, and try to establish general principles which may serve as a restraint upon the extraterritorial authority of penal law." (Treatise on Penal International Law, Nos. 3 and 4.)

This statement of Fiore, in the work in which he asserts what the majority of established legislations admit, up to the present, shows that the writer intended to treat an open and pending question, and that this question upon which he wrote was not, as is pretended, defined as a law by all the nations.

That is also to be inferred from the statements made by Mr. Moore himself with respect to the proceedings of the Institute of International Law, when it discussed the matter of extraterritorial jurisdiction in the city of Brussels in 1879. The special jurisdiction styled quasi-territorial by Mr. Brocher, and which was under discussion, was severely argued, and was, as is stated, at that time defeated by a vote of 19 to 9. Yet, in spite of that vote, the question was deferred for future debate. The subsequent sessions of the institute were held in Munich in 1883; and though the question was again raised, and another vote taken thereon, the said vote as mentioned by Mr. Moore, and which did not directly affect the complicated theory upon which rests the one hundred and eighty-sixth article, was not considered as having concluded that most serious of controversies, which has caused conflicting opinions, as Paul Bernard says in his modern Treatise on Extradition, among jurists ever since the Middle Ages. It seems clear that the institute had not regarded as conclusive and final its decisions on that difficult issue; for among the questions it enumerates as pending study on its part are those related to the conflict of penal laws (Revue de Droit International, Volume XII, page 616) and that the subcommission which reported upon the matter at Munich had been converted into a permanent commission upon this question and the question of extradition. (The same, Volume XVIII, page 514.)

Now, then, if the question of jurisdiction discussed by us is universally considered as being very much in dispute; if, as the best authorities claim, it embraces weighty problems in arduous and difficult matters, how is it possible that the adoption of one of the many solutions advanced, even if that be a solution unsanctioned by a majority of positive legislations, should constitute a violation of international law in the rights of men?

On the other hand, those rights do not acknowledge as their fountain the legislations of few or of many countries. No publicist of note includes positive law among the primal principles of international law. Wheaton only includes among those original principles of international law, when speaking of the positive legislations, the laws of particular states which give rules to their cruisers and to their prize tribunals; while Ortolan (not the criminalist, but the author of "Diplomacy of the Sea") expresses himself as follows:

"Frequently, in addition to the public treaties, and to the usage of nations, there is another fountain to which recourse should be had in order to complete an understanding of international usage. Such are the laws and ordinances issued by the government of each state for the modeling of the conduct to be observed by its citizens or subjects in certain stated cases, wherein the interests of that government can come into conflict with those of other nations. The rights of people are not derived from these ordinances and laws, but, on the contrary, they emanate essentially from the rights of the people, and should not be more than their mere application, but solely on that account they should be understood." (Book I, chap. iv).

The legislation of various countries may furnish data to throw light on international right, but it is not legislation which can fix that usage and determine the obligatory character of international relations.

The best proof that the solution given to the matter under discussion by the majority of nations is not binding upon any one nation, is furnished by the very Government of the United States. It is well known that the Declaration of Paris, made in 1856, entirely abolishing privateering, had been signed not only by the seven powers which drafted the same but by others, forty in number, or nearly all the European powers (with the probable exception of only Spain), and by all the countries of America saving the United States and Mexico. Here we see a majority of civilized nations which exceeds the majority alleged in our discussion, and here also we find a matter of much more moment, while on the other hand the system of privateering met with the uniform disapproval of writers and philanthropists, among whom stood, foremost, Franklin, the negotiator in your country's name of the first treaty condemnatory of that practice, celebrated with Prussia in 1785, and which, a few years later, was renewed, the stipulation to which I refer being then struck out. Nevertheless those considerations failed to induce either your Government or that of Mexico to hold themselves bound in virtue of international right to subscribe to the dictation of that majority. The fact is, a matter has been touched upon wherein while a certain rule of procedure has been adopted for their guidance by a large number of states, neither the nations forming that group nor all the publicists have declared that any other interpretation would be contrary to international law, as Dana observes (note to International Law of Wheaton, § 358); and thus the Declaration of Paris is not shown to be a rule of law binding upon every civilized

country. On the contrary, any of the non-signers of the aforesaid declaration is free to settle the question in accordance with the notions it may entertain as to its own interests.

It does not therefore matter how many penal codes in force in other countries may have restrained extraterritorial jurisdiction to a greater extent than Mexico, nor how many have gone at least as far in that line as this Republic. That in truth does not matter; still I can not help remarking that Mr. Moore has underestimated the number, saying that only two countries, Russia and Greece, concur in the matter with the Mexican Republic.

The codes of those two countries take even more advanced ground than that of Chihuahua. The same is true of the Hungarian code, which differs from that of Austria. The Austrian code, solely when overtures for extradition are made and refused, punishes every foreigner who offends abroad. Sweden and Norway, in their two distinct codes, exceed the limits of the Mexican in the recognition of that right, though they suspend its exercise in each case, upon the will of the King, for while they do not pretend that the right emanates from the will of the King, they presume the existence of that right, to be used under the peculiar circumstances favored by the sovereign.

There are, besides, in Europe other codes of wider application than that of Chihuahua. One of these is the Tuscany code of 1843, concerning whose provisions and present force in Italy we have already spoken, noting that, for the punishment of the act committed abroad, it requires a requisite similar to that of the Chihuahua code, *i. e.*, that the act shall be also punishable in and by the law of the place where committed. Even without that condition, such acts are punishable according to the respective codes of the Swiss cantons of Freiburg (Article III, § C), and of Tessino (Article V). Enumerating the codes I have mentioned, I find there are nine now in force in Europe which go as far as Mexican legislation has ventured, if not further, on the point of jurisdiction over foreigners for acts committed abroad. We do not now speak of America, as we will, further on, touch upon its laws.

Demonstrated, as I understand it to be, that the one hundred and eighty-sixth article of the Chihuahua penal code does not antagonize international law, as binding upon all states, it would seem useless to enter into speculative considerations concerning the basis upon which it rests. Still, as Mr. Bayard's instructions to yourself quoted to me and the printed memorial which accompanied them, contain several such considerations brought forward to attack that article, it will not appear strange that I should defend it on the same line. I will do so with all possible brevity and at least to defend the reputation of the jurists who compiled that code, and whose memory would be brightened rather than obscured by the examination of the matter.

It is often repeated that the jurisdiction of a country is an emanation from its sovereignty and that it never exceeds its frontiers. It can be granted that the jurisdiction of a state, either civil or criminal, has not other origin than the sovereignty of that state, and that the latter is territorial in the sense in which it can not indulge in the actual practice of any procedure save within its territorial limits; but that by no means implies on the part of that state a lack of the right to exercise jurisdictional power on a person who, while beyond its limits, offends that state or one of its citizens or subjects. The right which any state has to defend and vindicate its own subjects or citizens does not cease when they are temporarily under another jurisdiction. Then all that is lacking is a fitting or possible opportunity for the display of its jurisdictional power, which comes into play the moment the offender comes within the circle of operation of the nation which has been attacked, either as a whole or in the person of one of its individuals.

The distinguished criminalist, Ortolan, who deals with this question, deliberately discourses thus in his Elements of Penal Law: "In vain will the objection be raised that the exercise of the internal sovereignty of each country is bounded by its territorial limitations. It is not proposed, as we have just explained, to repair to the house of another to carry out an act of sovereignty; but it is proposed in our own house, upon our own territory, to exercise the right of punishment we enjoy" (No. 885). Says Carrara, another writer of note upon the matter: "It is enough to stretch the vision, without placing the hand upon the neighboring country."

It does not appear logical to admit the right set forth in the majority of legislations of punishing the foreigner who, in a foreign land, has attacked the safety of a state or of its collective interests, and in such event to recognize extraterritorial jurisdiction as being based upon the right to defend itself which belongs to every state, and at the same time to deny that same jurisdiction, in proper circumstances, when it is based upon the right which also appertains to any nation to defend its citizens or subjects. It is even yet less logical to recognize the right, in similar circumstances, to impose punishment upon the foreigner who counterfeits the coin of the realm, or beyond the limits of the same counterfeits the paper of its banks; for in such cases the nation has not been attacked in its collective entity, but the rather have a number of its members been

injured. The jurisdiction of a country is not affected by a large, rather than small, ratio of persons injured; it springs beyond question from the inherent right to defend and vindicate many or even one of the individuals pertaining thereto. The legislators who limit the exercise of quasi-territorial or objective jurisdiction admit, for obvious reasons, that each state is free to appropriate the incontestable right of extending the scope of that jurisdiction. But that limitation arrays no proof against the existence of that jurisdiction within all reasonable bounds.

The origin of the right to punish has been the subject of diverse opinions, and a multitude of theories have been invented to explain it. Following the German authors, Dr. Wharton has divided them into two groups: On the one hand, the *relative*, which embrace the ideas of vengeance, of expediency, and of conventionality or social compact; upon the other hand, the *absolute* or abstract, based upon the innate idea of justice. Ortolan, with marked profoundness and inimitable clearness, demonstrates that each is incomplete by itself, and that in view of our double nature, spiritual and material, which requires at once the satisfaction of the moral sense inherent in every man, as well as of his desire to blend practical usefulness with his acts, the true theory, that upon which common sense is based, is that which assigns as the basis of punishment demanded by all society intrinsic justice combined with the good of society. This opinion, though differently expressed, is also that of the said American criminalist Wharton, and the no less estimable Professor Woolsey.

This opinion was also adopted by the commission charged in 1871 with the formation of the Mexican penal code, and it served them as a guide in their multiplex and important deliberations. Thus it declared in its preliminary prospectus, and invoking that theory the commission, without analyzing its application to any given case, created the provisions of the one hundred and eighty-sixth article, as is seen in the extract therefrom which I quoted in my note of August 12, 1886, to Mr. Romero. Said theory could be applied to the case very briefly, observing that if the act committed abroad by a foreigner is a violation of the moral law, *malum per se*, as it must be regularly if it is punishable alike by the legislation of the country in which the offense is committed and that of the state in which the delinquent takes refuge, intrinsic and inherent justice calls for the punishment of the offender in one country or the other, and if said act redounded to the injury of a native of the country of refuge, there appears also in such case the expediency of adjudging and trying him for all the utilitarian ends of punishment, there existing in the latter country the two elements under which the right to punish is unquestioned.

Says the criminalist Ortolan: "The greatest scruple which can remain in the mind when these problems arise against the application of the penal laws of one land to the acts committed in another, above all if the delinquent is a foreigner, is that oftentimes that foreigner might suffer punishment for the infraction of laws with which he was not familiar either in their text or their existence even, and that the axiom 'nobody ought to be ignorant of the law,' can not rationally be applied to such a case. But * * * [here the author refers to other explanations which he has given] the offending foreigner who commits a crime against a person of another nation may be ignorant of the precise provisions of the penal law of that nation; but he undoubtedly knows, by his conscience, that he is committing a criminal act and that he merits chastisement. In case of doubt, he could before acting inform himself touching the provisions of the law to which I allude, the same as though he were about to make some private contract or the purchase of real property in the country of that person; in which case he would be careful to inform himself of the law of the country of the other contracting party, the duties of the investor, and the necessary formula for the transmission of those effects or property. Furthermore, as he can not come within the circle of action of the law and of the repressive legislation of that state except when he enters it and is captured therein, he can, before coming to alarm that society and to expose himself in the territory of the country to which his victim belongs, inform himself touching the penalties applicable to himself for the act he has committed against one of the subjects or citizens of that state." (Elements of Penal Law, by Ortolan; fifth edition, by Desjardins, professor of penal legislation of the faculty of Paris, year 1886, § 903.)

I have made this long quotation because I consider it pertinent to the defense in general of the one hundred and eighty-sixth article of the Chihuahua code. In addition, it should not be forgotten that this article contains a provision which makes even clearer the justice with which it sanctions the punishment of an offending foreigner who has injured a Mexican in a foreign land, namely, the requisite that the act for which he is judged shall be also punishable in the country of its commission. This gives an additional guaranty that no act committed will be punished in the case of one believed to be innocent. I say that this is an added guaranty, because treating of *délits* against private individuals, the legislation of civilized nations is generally agreed upon the acts that constitute the category of crime, as offsetting the *délits* which we could style as against public affairs, as is that of attack against the institutions of a state, and con-

cerning which, however, extraterritoral jurisdiction is admitted, although there is not as much universal interest shown in its suppression.

Dr. Wharton expresses (*ubi supra*) ideas similar, or at least with an identical end, to those set forth by Ortolan, when he says: "Two objections, however, may be made to the *real* theory of jurisdiction. The first is that it renders foreigners liable for disobedience to a law with which they are unfamiliar. But if this objection is valid it would relieve foreigners intraterritorially as well as extraterritorially. If a foreigner can set up the defense of ignorance of our laws abroad he can set up the same defense on our shores. * * * But in point of fact, no such defense can be set up. * * * In other words, the presumption of knowledge of the unlawfulness of crime, *mala per se*, is not limited by state boundaries. The unlawfulness of such crimes is assumed wherever civilization exists."

The Doctor then proceeds to bring out the second object of which I treat; and I am going to copy what he has to say thereon, for it is the answer to one of Mr. Bayard's observations:

"Another and more serious objection [I quote his own words] is that the *real* theory assails the prerogative of foreign sovereignties. To this may be replied that the objection proves too much. If a foreign sovereign has exclusive jurisdiction over his own subjects, then we can not under any circumstances punish the subjects of a foreign sovereign. But this no one, even among the sturdiest advocates of the personal theory, pretends. It is conceded on all sides that the moment a foreigner sets foot on our shores we hold him liable to our penal system in all its details. Nor is this all. There is no civilized State that has not passed statutes making it a criminal offense, punishable in its courts, for foreigners, even in their own countries, to forge its securities."

In this last Dr. Wharton has called attention to the inconsequence, I have styled illogical, of punishing certain crimes committed abroad by foreigners against the state or against many of its citizens or subjects, while it denied the right of prosecution when the injured parties were few or even one, as though law could vary because of the number of those in whose persons that law had been violated.

"We do not, it is true, attempt to arrest them in their own land," adds the able Solicitor of the State Department; "we are restrained from making unconditional arrests by the countervailing principle of the inviolability of the soil of foreign States. But when such offenders come, voluntarily or involuntarily, within our borders we try them as justly subject to our laws on the ground that they have criminally assailed our rights."

Finally, Dr. Wharton, in the place quoted, answers another difficulty which is urged in his country against objective jurisdiction, a difficulty that apparently originated the sixth amendment to the Constitution of the United States. Touching that point I have nothing to say. For even if, as is apparent, the objection is not well answered, even when it is absolutely unanswerable, it is clearly evident that the provision alike in the Constitution of the United States and of that of Mexico, if called on to speak touching this question, could not serve as a solution to any international issue or to any point relating to the principles of international law. The fundamental law of a land which authoritatively decides its domestic questions lacks authority to interfere with foreign affairs.

I will add, in conclusion, a very obvious reason in support of the right to punish the foreigner who, having offended one of our citizens abroad, afterwards comes within our territorial confines. "It is a received maxim of international law," says Phillimore, "that the government of a state may prohibit the entrance of strangers into the country, and may therefore regulate the conditions under which they shall be allowed to remain in it." (International Law, Vol. I, p. 233.) If, therefore, the state has the right to impose conditions upon the entrance of foreigners in its territory, one of those conditions could well be that, upon entering its bounds, the foreigner should be held responsible, under the legislation of the land, for the offenses he may have committed when abroad against the citizens or subjects of that state.

Still, I should repeat that, while I advance these considerations in favor of the solution placed upon the difficult problem of extraterritorial jurisprudence by the Mexican penal code, it is not because I find myself forced to do so in this present discussion. All that is now necessary to investigate is whether that solution, not being in conformity with what has been adopted in the majority of recognized legislations, constitutes a violation of international law. I have said enough already to demonstrate that this can not be maintained in the affirmative.

Another reason is also presented to urge Mexico to modify its legislation upon the point under discussion, and to conform it, according to the suggestions made, with the legislation in force in other nations. That reason is the advisability of fomenting good neighborhood and friendly relations with the United States, removing thus, it is stated, a constant menace to the continuance of a friendly understanding with that Republic. It is certain that if it were so, and (supposing such course entirely practicable) if circum-

stances did not interfere which would make that step not only wholly useless for the end sought, but even indecorous on the part of an independent state, the Mexican Government would hasten to approve such a proposal, for it greatly esteems and appreciates the importance of cultivating and strengthening those good relations. But it is scarcely to be believed that with such a concession the real and probably sole cause of menace to the harmony of the two nations would disappear; that is, the spirit of adventure and speculation characteristic of certain men like Cutting, who are not wanting in your country, while in our country abound several bad elements easily operated upon by those Americans, happily few in number, whose dream is one of acquisitions in any manner whatsoever at the expense of a neighboring and comparatively weak nation.

A triumph won after an outcry by such persons, far from satisfying them and restraining them from future like attempts, would but serve to spur them on, and stimulate their appetite for notoriety and for greed secured by means of claims, if not by filibustering schemes. I am referring to both petitions in your note, for they are *de facto* and essentially claims for the indemnification of Cutting and for the modification in future of that legislation which prevents him from injuring a Mexican with impunity within the territorial limits of both countries.

Another of the effects which would result from the indemnification of Cutting, or the repeal of the laws which, as affecting his case, have been stigmatized as being contrary to international usage, would be to wound deeply the patriotic sentiment of Mexicans, who, in general, while they could not comprehend the technical reasons alleged, have understood and felt the force of the hurtful statements made against their country in connection with that unfortunate incident.

It is not, in our judgment, a menace to the friendly relations between the two Republics that our legislation, or rather that of Chihuahua, should punish real delinquents who may have offended foreigners in the United States the same as though they had offended in any other foreign country. The masses of the people in either country do not understand the technical questions springing from jurisdiction, and appear even to disdain such arguments, which are raised by persons presumed to be well informed, or who are imprudent, like Consul Brigham. He it was who, possibly without knowing it, roused among the Texans those elements of disorder and disquietude which, taking Cutting for a pretext, came to the surface. I refer especially to the scandalous *meeting* against Mexico held then in El Paso, and to the consequent provocations against this Republic which appeared in a few of the American papers.

If that mass meeting did evince the danger that beset the friendly relations of the two countries through the procedure of the said consul, the other *meeting*, held immediately after and in the same place by the better class of the people, evinced, no less than did the general tone of the press of the United States on such an occasion of note, that the good sense of the American people (at least so we understood) was not swayed by mere jurisdictional questions the application of which might tend to leave unpunished certain offenses or serve as a pretext to the claims of those who consider themselves unjustly injured.

In our opinion the best indication that the people of the United States would not object to the further continuance of the one hundred and eighty-sixth article of the Chihuahua penal code, nor even to the application anew thereof in the event of a similar occurrence in the United States, especially as it has only been applied to an American once in the course of many years—the best proof, I repeat, is furnished by an occurrence which came about a few months after the imprisonment of Cutting. A person in El Paso, Texas, libeled in the press a Mexican of Paso del Norte, where, like Cutting, he was at once imprisoned. There was but one difference between the two cases; that is, that the libeler was a Spaniards, not an American, a circumstance that should not have operated as a waiver of protest against the jurisdiction thus exercised, for, under the territorial theory of punishment, he should have been submitted to the tribunals of El Paso. Nevertheless, in all that town not a voice was raised to ask for his return; and the Chamber of Commerce, composed of the most honorable citizens, held an extra session, to which the Mexican consul was courteously admitted, to deliberate as to the best method of concerted action on the part of the people of the two towns to repress the action of libelers, whose attempts to wantonly insult the most respectable people of either place were greatly facilitated by the contiguity of those cities. The report accompanying this note, with the inclosed clipping from El Paso Times, sent forward by Consul Escabar y Armendariz, reveal the spirit of the gathering, by no means hostile to Mexico, for the renewed application of the one hundred and eighty-sixth article, but the rather favoring its provisions.

With the purpose of persuading this Government to modify, in the point of extraterritorial jurisdiction, the legislation in force in Chihuahua and in the greater part of this Republic, you were pleased in your said note, and acting under Mr. Bayard's instructions, to recommend Mexico to follow two examples therein cited as very opportune.

The first example is offered in the McLeod case, which occurred in 1842, in which, as you express it, in reply to the demand of the British Government for the release of the

prisoner, who was in the custody of the authorities of the State of New York, the United States Government was obliged to refuse, on the ground that the Federal authorities had no right to interfere, and then Congress amended the law regulating the issuance of writs of *habeas corpus*, so as to enable the Executive to fulfill its international obligations. In that case, you say, the reply of the American Government was not dissimilar from that made by the Mexican Government to the demand for the release of Cutting; "but," you then add, "the United States made all haste to conform its municipal laws to its international obligations."

As is deduced from the foregoing, what the United States then did was not to change its municipal provisions in conformity with its international obligation; but, allow me to say, simply to modify its legislation so as to permit the Federal authorities to interfere in cases originating in the several States and which might, with or without reason, give rise to an international dispute. In that respect your recommendation might be heeded. We having imitated your form of government there is nothing more natural than that we should avail ourselves of analogous measures to avoid the annoyances whereby State officials, by means of their acts, may compromise the responsibility of the nation in the matter of its foreign relations intrusted to the General Government; the latter, in such an emergency, being wholly unable to avoid the trouble. Fortunately the authorities of Chihuahua in no way compromised the federal authorities in the proceedings against Cutting, for their conduct throughout was prudent and strictly legal. But as that may not occur in other cases or in other States of the Union, and as the Government of Mexico should have the faculty to interfere therein with due opportunity, it has, for some time past, fixed its attention upon that matter, and will endeavor to meet that necessity in as far as the constitution of this Republic will permit.

The second example you cite to me is that of France, in the case to which I had occasion in this note to refer, when the Government of that nation respected the wishes of the Government of England, withdrawing from its corps legislatif a *projet de loi* which established jurisdiction over offences committed by foreigners against Frenchmen outside of France. We are informed that, in following this notable example we would be taking a "highly honorable" step.

Setting to one side the difficulty attending independent States in any attempt to change their laws in their domestic bearing, great differences at once become evident between the cases of France and of Mexico. The Government of Great Britain requested that of France not to allow the approval of a *projet de loi*, which up to that time had been voted upon by only one house of the legislative assembly. In Mexico it would be necessary to derogate a legislation or rather various legislations in force for several years past. Again, the reasons of international polity which, it appears, surrounded the deliberations of an important convention for the extradition of criminals, being then negotiated, do not certainly obtain at present among us, nor are the precedents of the petition made by the British Government identical with those of this case.

But there is beyond all this a most marked difference between the circumstances in Great Britain and those in the United States. The former requested the French nation to refrain from the enactment of a principle in legislation not to be found in the British code of laws, at least in a very declared manner, nor in any codes in force throughout its different possessions. Consequently Great Britain made an overture of reciprocity and offered an example to follow. The same does not occur when the United States asks Mexico to modify its legislation by eliminating the principle under consideration, because that principle is found to be in force in part of the American Union. Of a truth it is difficult to understand why Mr. Moore, in the careful examination of all, or nearly all, the legislations of the world, without excepting in America even that of small States like Costa Rica, should have overlooked the legislation so palpable and of such decided importance in his own country; that is, in the State of New York, which, in the neighboring Republic, with legitimate pride, is styled the *Empire State*.

Well, in the penal code in force in New York, sanctioned since 1881, and the work, as I have understood, of very distinguished jurists, I find the following, which I copy:

"§ 676. A person who commits any act without this State which affects persons or property within this State, or the public health, morals, or decency of this State, and which, if committed within this State, would be a crime, is punishable as if the act were committed within this State."

There are other paragraphs or articles of the same code which accord with this; but it is useless to cite them, as it is also useless to ascertain whether any other State or Territory of that Republic recognizes, in its legislation, in such a decided manner, extraterritorial jurisdiction over the acts of persons, without any distinction whatever, be they subjects or aliens, against persons or interests of the State. My purpose is served by quoting from the code of but one of those political entities, especially as it is one of the foremost in point of power, population, and wealth.

That code, in the provision cited, establishes the penal jurisdiction of New York over acts committed outside of its bounds by any person whatsoever, even an alien, to a greater

extent than that of Chihuahua, for it requires that the act itself shall constitute a *crime* (delito), which, according to that same code, embraces every illegal and punishable act, even simple fault or *misdemeanor*, while the Chihuahua code provides that the act of a foreigner shall at least be liable to *arresto mayor* (detention from one to eleven months). Neither does the New York code, as does that of Chihuahua, require that the legislation of the country in which the offense is committed shall designate thereto a penalty. On the contrary, in section 678 it specifies that that is neither a requisite nor an obstacle to the punishment of an act. It says: "An act or omission declared punishable by this code is not less so because it is also punishable under the laws of another State, Government, or country, unless the contrary is expressly declared in this code." Neither does it take into account as an exemption from punishment the circumstance that the said act may have been pardoned or punished in the place of its commission.

It can not be alleged that the provision previously cited limits the punishment of the foreigner to cases wherein he may offend against a New Yorker within the limits of his own State, taking as a basis that the code provision speaks of acts which affect person or property within the State; for, even if the offended party happens at the time of the offense to be *outside*, his family or his acquaintances would be *inside* the State and would be affected by the scandal or consequences of the offense. Be that as it may, and even supposing that limitation to be allowed in New York, it could not be argued in the case of Cutting, for in that case Medina, the offended party, was in Mexican territory at the time of the commission of the crime or *délit*.

The penal code of Texas also has the following provision:

"Article 454. Persons out of this State may commit and be liable to indictment and conviction for committing any of the offenses hereinbefore enumerated (forgery of land titles and other documents), which do not in their commission necessarily require a personal presence in this State, *the object of this act being to reach and punish all persons offending against its provisions, whether within or without the State.*"

This provision clearly establishes the right to punish every person, even an alien, who commits abroad certain offenses, rather than all offenses against the State or its citizens or subjects, as does the New York code. It is noteworthy that Mr. Moore should also overlook the legislation of Texas, when this was the State in which the Cutting incident, the subject of this study, occurred.

In view of these considerations, we can not recognize the right of the United States of America to declare the one hundred and eighty-sixth article of the Chihuahua penal code contrary to international law, and to base thereon a claim for damages in favor of an American, nor yet to request that the article in question be modified, when the codes of one or more integral parts of that Republic contain other provisions analogous thereto, if not even more advanced in their application of the disputed principle. Why should the Mexican codes and not that of New York be modified, when that of the latter State contains the defect alleged against the Mexican codes?

The first condition to an honorable agreement between two independent nations is that there may be perfect reciprocity. No friendly state will insist upon such a proposal, nor will it be admitted by another save at the cost of its national dignity.

I am going to close this long note, which has been insensibly lengthened and drawn out by reason of my desire to treat succinctly upon various points of the printed report to which you refer. In this note I believe I have demonstrated—

*First.* That Cutting did not suffer ill treatment, nor was he the victim of illegal procedure, and that even his apparent lack of defense was due to his own refusal of counsel for defense, of his own rejection of liberty under bail or any other legal recourse; for at all times he simply insisted that he relied alone upon his consul and his Government.

*Second.* That, therefore, there is no reason of that kind why Cutting should be indemnified.

*Third.* That neither can the complaint stand that a law antagonistic to international rights of individuals was applied to him—

*A* Because he was tried not merely for an offense committed in a foreign country, but on account of the continuation or repetition thereof in Mexican territory; and

*B* Because the one hundred and eighty-sixth article of the penal code of Chihuahua does not contain the defect attributed thereto.

*Fourth.* The simple fact that the aforesaid article carries the idea of extraterritorial jurisdiction, as applied to foreigners, beyond the limits of the legislation of the majority of other countries, does not prove the same to be opposed to the recognized rights of individuals.

*Fifth.* International usage confines itself to the establishment of general principles, and when controversy arises regarding the application to be made of any part of those principles, any interpretation, even that rendered by a minority of the States, is a legitimate manifestation of the sovereignty of those States.

*Sixth.* This occurs in the case of the so-called objective or quasi-territorial jurisdic-

tion; that is, that which is applicable to a foreigner abroad when offending a citizen of the complaining state; a question which, according to all acknowledged authorities, far from being settled, is one of those undecided problems presenting greatest difficulties to the legislator and to legal science.

*Seventh.* Meanwhile, that jurisdiction, admitted as it is in the majority of recognized legislations over cases in which the foreigner has attacked the safety of a state, or to the detriment of many of its citizens or subjects has counterfeited the coin of the realm or the paper of its banks, can with equal reason embrace such cases wherein the damage falls upon a few, or even upon one, of the citizens of the complaining state.

*Eighth.* The right which every nation has to impose rational conditions upon the entry of foreigners upon its own territory conveys with it the right within the limits of its legislation, to hold such foreigners responsible for acts they may commit abroad against that nation or against any of its citizens or subjects.

*Ninth.* The United States can not request Mexico to modify her legislation in this respect, even supposing that legislation to contain the alleged defect, for the United States themselves in one or more of their territorial entities hold and follow substantially the same legislation.

Before concluding I take pleasure in stating that I regard the sincerity of the protests of friendship and consideration towards Mexico in which your note abounds. Sincere are also the friendly evidences upon our part, as well as being based upon the conviction of mutual dependence, and upon the sympathy we hold towards the Government and the country you represent. The extract you quote from a message of President Cleveland when speaking of this country is very significant: "Nature," he said, "has made us irrevocably neighbors, and wisdom and kind feeling should make us friends." Nothing is more certain; nothing is more happily expressed. Nothing, on the other hand, is of clearer application to every discussion in which, for secondary causes, amicable relations are endangered or the harmony between the two nations is threatened than that friendly sentiment which day by day is developed with the facility of communications, with the increase in traffic, and with the closer contact between the two nations secured through mutually agreeable intercourse, which tends to dissipate deep-seated prejudices and to strengthen the esteem for each. All these beneficial influences are in great risk of disappearing through mere questions of jurisprudence, in our opinion of more theoretical than practical interest, unless to a person who seems to have tried to make his name hated by the people of Mexico, without gaining thereby any enviable reputation in his own country. Be that all as it may, the Mexican Government in this question, as well as in any other case, is resolved, in order to maintain its friendship with the United States, to sacrifice everything save that which affects its national honor or the important interests thereto commended.

I reiterate, etc.,

IGNO. MARISCAL.

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[Inclosure 2 in No. 306.]

*Mr. Maceyra to Mr. Mariscal.*

MEXICAN REPUBLIC.

Government of the State of Chihuahua, second section, bureau of justice. No. 1383.

The president of the supreme tribunal of justice, in a communication, No. 741, of this date, informs this Government:

The supreme tribunal of justice, over which I have the honor to preside, having perused the report and other papers furnished by the second alcalde of Bravos in regard to the imprisonment of Mr. A. K. Cutting, has to-day decreed what I proceed to copy:

"While reserving the right to take fitting action hereafter, we order that a copy of the report furnished by the second alcalde of Paso del Norte be at once forwarded to the executive of the State, in order that the latter, if he see fit, may transmit the same to the foreign relations department.

"I have the honor of communicating this to you for your knowledge and for the effects set forth in the said decree, and I inclose in five sheets the copy in question."

I have the honor of inserting the above decree for your knowledge, and I inclose the copy alluded to.

Liberty and constitution.

Chihuahua, July 23, 1886.

FELIX FRANCO. MACEYRA.

[Inclosure 3 in No. 306.]

*Report of Judge Castañeda.*

REPUBLIC OF MEXICO.

Supreme tribunal of justice of the State of Chihuahua. A seal which reads: Second court of the Bravos canton. Citizen minister of the supreme tribunal of justice of the State.

The undersigned, second minor judge of this town, in compliance with instructions from your superior court given in a decree issued in consequence of a communication from the governing powers of the State, dated the 12th inst., and containing a note from the secretary of state and the foreign relations department, renders the following report:

Mr. A. K. Cutting, the person to whom the said communication refers, has been accused before this court by Mr. Emigdio Medina, on the 21st day of June last, of the crime of libel; the said Medina presenting a certificate in due form showing that he had endeavored to effect a reconciliation before the same court in the same matter, and presenting also proof of the offense, which was added to the documents in the case, and which was a paragraph published in the El Paso Sunday Herald. The article in question is published in Spanish and English, and reads thus:

EL PASO, TEXAS, *June* 16, 1886.

To EMIGDIO MEDINA, *of Paso del Norte:*

In a late issue of El Centinela, published in Paso del Norte, I made the assertion that Emigdio Medina was a fraud, and that the Spanish newspaper he proposed to issue in Paso del Norte was a scheme to swindle advertisers; on which account I was taken before a Mexican judge for a reconciliation, I consenting to the same on account of my ignorance of the laws of that country.

Now, I do hereby reiterate my original assertion that said Medina is a fraud and swindler.

The fact of my being taken before a court for a reconciliation was a contemptible and cowardly act, and in keeping with the odorous reputation of the said Emigdio Medina.

And should said Medina desire American satisfaction for these lines, let him call on me where and when he chooses and I shall be ready to answer him.

A. K. CUTTING.

In view of the accusation and the article referred to, an order was issued, on the 21st inst., for the arrest of A. K. Cutting, and on the 23d of the same month I caused him to appear before me. After the legal formalities, the libelous paragraph which he had published against Medina subsequently to the date of the reconciliation was presented and read to him by the official interpreter. He was asked if he was the author of that paragraph, and if it had been his intention to wound Medina's reputation. The only answer I could obtain was the following: "I am not obliged to answer the question put to me touching this matter, seeing that all this took place in El Paso, Texas, and for any procedure I place myself beneath the flag of the American consul."

He was asked if he had with him any copies of the paper in question with a view of distributing them, and he returned the same answer as to the first question.

On being again asked why he had violated the reconciliation which had been effected before the same court between himself and Mr. Medina, he requested permission to give no answer. His declaration was then read to him by the official interpreter, and he ratified the same and signed it along with the judge, the official interpreter, and witnesses, Pedro Tellez and Pedro Y. Garcia.

On the same date he was declared formally imprisoned, and he was notified that he could name his counsel at once, and was informed who was the accusing party. He chose as his counsel citizen Licentiate José Maria Barajas, and he added that he would immediately communicate with his consul, and he signed this instrument along with the interpreter, the judge, and the said witnesses.

In consideration of his being a foreigner, this court succeeded in having him placed in one of the most commodious cells in the prison, clean and possessing the best hygienic arrangements, in order that its quality might not furnish a pretext for its being said that he was condemned to serve his term of imprisonment in the worst of dungeons.

On the 26th of the same month I was waited upon by the chancellor of the United States consul at this place, who stated that he came by order of the consul to request me, in the latter's name, to give him some information in regard to the case of Mr. A. K. Cutting, and who further handed to me a note from the consul. I replied that I could

give no information, as the law expressly forbade me, and I reiterated this in my reply to the consul's note, which note was as follows:

SIR: I have the honor to officially communicate with you in regard to the arrest and imprisonment of A. K. Cutting, an American citizen, by your order.

I have been informed that A. K. Cutting was arrested, examined, and incarcerated for an offense (if offense at all) committed in the State of Texas, United States of America, which was the publication of a card in the El Paso (Texas) Herald.

It is scarcely necessary for me to call the attention of your honor to the fact that for an offense committed in the United States your court can not possibly have any jurisdiction. Therefore the arrest and detention of Mr. Cutting in jail is wholly unwarranted and oppressive, and in violation of one of the sacred principles of American liberty. This communication is for the purpose of making a formal demand upon your honor for the immediate release of Mr. Cutting, which I do in the name of the United States Government, which I have the honor to represent at this point.

Trusting that you will comply with my request and petition in his behalf and order his immediate release,

I am, &c.,

J. HARVEY BRIGHAM,
*Consul.*

On the 30th of the same month I returned the following answer:

"In reply to your note, dated the 26th inst., I have the honor to state to you that every functionary of the criminal bench is forbidden by an express law to give any information as to criminal suits pending in their courts to persons who have no legal right to intervene therein, and according to the doctrines of Peña y Peña, in his work entitled 'Lessons in Forensic Practice,' vol. 1, frac. 97, p. 507, consuls have neither criminal nor civil jurisdiction over their fellow-countrymen; I allude to the affair of Mr. Cutting.

"Therefore I am unable to order his release save in the form prescribed by the laws of this country.

"I remain, etc."

On the 5th inst. I ordered Cutting to be brought out of jail for the purpose of notifying him of an official sentence. When it was read to him by the official interpreter, he said that he heard it and that in this affair he had placed himself under the protection of the American consul. He refused to sign even what he had declared. The judge places this on record by means of judicial formalities, causing four witnesses, viz, Santas Bermudez, Pablo Lopez, Martin Gomez, and Antonio Alvarez, to be present and sign.

When the case was on the point of being transferred to the jurisdiction of the attorney-general, I ordered Cutting to be brought before me, on the 19th of this month, in order to inform him of the above-named resolution. He was informed, and then he was asked whether the article to which the attorney-general referred was his production and whether he ratified it.

While the interpreter was reading it to him he interrupted him, saying that he had already read it and that he would give no answer. He was asked if he would sign the notification, and he answered that he would sign nothing. I placed this on record by means of judicial formalities in the presence of four witnesses, who signed along with me and the official interpreter. These are the events such as they occurred, and as to the truth of what I affirm, viz, that Mr. Cutting never solicited release on bail, I adduce the testimony of the attorney-general which, in one serviceable leaf, I have the honor of inclosing, respectfully begging your supreme tribunal that my rights be protected against the author of the calumnious charges, as also against what Cutting affirms touching the interview he had with the American reporter; for as it coincides with the facts proven in his case, I have no doubt, though Cutting has not chosen to answer, that he is the author of that false machination.

Liberty and constitution.

Paso del Norte, July 21, 1886.

R. CASTAÑEDA (Flourish).

It is a copy taken from the original, which I authorize and sign in obedience to superior orders. Chihuahua, July twenty-third, eighteen hundred and eighty-six.

JOSÉ M. MARQUEZ,
*Secretary.*

[Inclosure 4 in No. 306.]

*Mr. Escobar y Armendariz to Mr. Mariscal.*

No. 29.] MEXICAN CONSULATE IN EL PASO, TEXAS,
*El Paso, Texas, April* 23, 1887.

SIR: At the request of the jefe politico of Paso del Norte, I, along with some representative residents of that town, attended a meeting of the chamber of commerce of this city, which was fixed for and actually took place on the night of the 21st, to consider the conduct of Don Pedro G. Garcia, held to be the editor or publisher of the "Observador Fronterizo," published here, and which has given rise to serious complaints on both sides of the river. The Mexican delegation was pleased to name me its president, and in this capacity it fell to my lot to explain to the board of trade, by which we were received most kindly, the causes of complaint against Mr. Garcia, who is now imprisoned at Paso del Norte under a charge preferred against him in this place. It was easy to show how damaging it was to both towns that there should be persons on both sides of the river who had no other employment than that of criticising, calumniating, and vilifying public functionaries and representative persons, regardless of the families whose peace was being disturbed by unwarranted attacks on private life; and how necessary it was, seeing that the authors of these attacks had turned them into a speculation as the sole means of giving interest to their publications, that both towns should co-operate to prosecute the guilty parties in legal form; and the important aid of the board of trade, there represented by numbers of its members, was requested, to that end. The invitation was greeted with enthusiasm, and the resolutions contained in the inclosed clipping from the Times of this city were at once submitted to the meeting.

At this moment Mr. Julian, the president of the board of trade, entered, along with a Mr. Gutierrez, the printer of Garcia's libels and on whom Garcia has endeavored to shift the responsibility therefor. Gutierrez stated that Garcia, and not himself, was the author of all the articles denounced, and that he therefore delivered up the rough copies sent to him by Mr. Garcia from the jail of articles to be published in the 3rd number of a sheet styled "La Tempestad," the same as had brought about Garcia's imprisonment at Paso del Norte. Gutierrez said that he had decided not to publish the said number in view of the action taken against such clandestine publications by the board of trade. I will forward the said copies to you along with the declaration made by the printer Gutierrez before the judge of letters of Paso del Norte, before whom Garcia's case is being tried.

I have the honor of communicating all this to you, also informing you that the charge against the same Garcia, also for libel, preferred by Mr. Ochoa before the courts of this town, continues in abeyance.

I reiterate, etc.,

J. ESCOBAR Y ARMENDARIZ.

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[Inclosure 5 in No. 306.—Clipping from El Paso Times.]

BOARD OF TRADE.

*A lively meeting, and many important matters discussed.*

The meeting of the board of trade, Thursday night, was the first meeting of that body for several months. But the large number in attendance Thursday night, and the energy and harmony that were exhibited, made it clear that the organization is far from collapsing. President Julian presided, and J. A. Smith, of Smith & Thompson, was appointed secretary *pro tem.*, Secretary Levy being absent.

A delegation of Mexican gentlemen, headed by Consul Escobar, appeared. President Julian explained that they sought the aid of the board of trade in suppressing such libelous articles as those for which Pedro G. Garcia was now in jail. Officials and private families in Paso del Norte had been made the subjects of scandalous articles which appeared in a paper printed in an El Paso newspaper office. The proprietor of said office had explained that the paper being in Spanish, and he not reading that language, he did not know the tenor of the articles till after the paper had been published.

Señor Escobar also addressed the meeting, after which the following resolutions were passed:

*Resolved*, That the Board of Trade of El Paso, Texas, assures the people of Paso del Norte, Mexico, that they will endeavor to not only stop, as far as in their power, the publica-

tion of such scandalous articles, but will aid them in suppressing all such, and bringing to justice the perpetrators of such untimely assaults.

*Resolved*, That the board of trade denounce in the most severe terms the conduct of a person by the name of Pedro Garcia, a Spanish subject, in publishing and circulating slanderous articles reflecting upon the character and integrity of some of our most respectable neighbors in Paso del Norte.

One of the Mexican gentlemen present said that the person José Ruiz Gutierrez, who signed the Garcia libel, was "Francisco P." Gutierrez, who was a fugitive from justice, and who stole the money from the bank at Paso del Norte. He was the Mexican employed at the Herald office in charge of the job department, and was subject to extradition.

After expressing their hearty thanks the delegation withdrew.

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## No. 768.

### *Mr. Bayard to Mr. Connery.*

No. 269.]

DEPARTMENT OF STATE,
*Washington, February* 24, 1888.

SIR: I transmit for your information a copy of a communication from Mr. James B. Chess, dated Durango, Mexico, the 12th instant, concerning the arrest of Oliver Woods.

Upon the receipt of Mr. Chess' letter I telegraphed you, on the 21st instant, as follows:

Oliver Woods, American citizen, arrested at Ventanas on charge of complicity with Eraclio Bernal. Ask careful inquiry into facts. Circumstances indicate complete innocence. Particulars by mail. Act urgently.

Should further information be received here in regard to this matter you will be duly informed. Meanwhile you will keep this Department fully acquainted with all that you do touching the case.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 269.]

*Mr. Chess to Mr. Bayard.*

DURANGO, MEXICO, *February* 12, 1888.

DEAR SIR: I have just received notice that one Oliver Woods, owner of the San Manuel Ranch, near Ventanas, State of Durango, has been arrested by the Mexican authorities at Ventanas and taken to Cosalá, in the State of Sinaloa.

Charge against Oliver Woods is that he supplied Eraclio Bernal with corn, etc., from his ranch. Now the facts are, the hiding-place of Bernal and his band of robbers was near Woods' ranch, and when he wanted anything on that ranch he went there and got it, pay or no pay, and when a call was made it was death to refuse.

The Government of Mexico furnished no protection to Woods, and for several months he has been in Ventanas not daring even to go to his ranch, and was working for William Carroll & Co. as watchman.

I think the safety of this citizen calls for some immediate action, or he may be shot without a trial, as many men accused of being connected with Bernal have been. Your advice in this case will receive prompt attention; or it may be best to communicate with Mazatlan, as Cosalá is in the State of Sinaloa.

I inclose a lithograph of this noted bandit, who for twelve years has defied all the powers of the Mexican Government.

Respectfully, etc.,

JAMES B. CHESS.

## No. 769.

### *Mr. Connery to Mr. Bayard.*

No. 308.] LEGATION OF THE UNITED STATES,
*Mexico, February* 25, 1888. (Received March 5.)

SIR: Upon receipt of your No. 244, of 19th ultimo, relative to the claim of Howard C. Walker for wrongful imprisonment and cruel treatment by Mexican officials at Minatitlan, State of Vera Cruz, I made due presentation of the case to Mr. Mariscal, and inclose herewith a copy of my note to him and the translated reply received thereto from him.

You will observe that he has taken the matter under advisement, and promises to furnish a reply, which will be forwarded to you as soon as received.

I am, etc.,

THOMAS B. CONNERY.

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[Inclosure 1 in No. 308.]

### *Mr. Connery to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, February* 13, 1888.

SIR: Under specific instructions, just received from my Government, I have to pray your excellency's special attention to the claim of Mr. Howard C. Walker, a citizen of the United States, against the Mexican Government for wrongful imprisonment and cruel and unwarranted treatment by the Mexican officials at Minatitlan, State of Vera Cruz, for a period covering nearly four years.

Though this case was in the year 1884 a subject of diplomatic correspondence with your excellency's Government, still I take the liberty of recounting its history, in order to aid a sound judgment in the matter.

By the inclosed memorial, duly supported as it is by official affidavits and documents, your excellency will observe that Mr. Howard C. Walker, a native of Charleston, S. C., has resided at Minatitlan since 1881, being employed there as shipping clerk of Mr. R. H. Leech, a lumber merchant; that on March 19, 1883, while thus employed, he was arrested by order of Mr. Carlos Molina, judge of first instance at that port, on the charge of stealing wood from one José R. Teran and shipping the same as the property of Mr. Leech; that after four days' imprisonment, during which he was treated with much indignity, he was brought for a hearing before Judge Molina; that he was not, however, admitted to bail, but was, after the hearing, remanded to jail, where he was kept until the following day, when a violent attack of hemorrhage of the lungs compelled his removal to his own house; that there, during his illness and recovery, he remained under guard for several months; that in November, 1883, his case was called for trial before Mr. R. M. Sousa, and he was promptly acquitted; that the case was appealed to the superior court of Vera Cruz, from which, after three months' delay, it was remanded for a new trial; that Mr. Walker was thereupon again imprisoned on February 12, 1884, not being permitted to give bond, and confined for three months and eleven days in one room, with fifty-five prisoners of the lowest sort, in a jail which, from the description given of it by the claimant, would seem to have been utterly unfit for human habitation: that he was treated with marked insult, and at one time an attempt was made by Mexican officials to have him shot; that his wife and friends, and even the American consul, were denied access to him; that at length, on May 23, 1884, his health having completely failed, he was released on $40,000 bail, although it is on record, according to a statement dated July 30, 1884, of Mr. J. D. Hoff, then United States consul at Vera Cruz, that the property alleged to be stolen "is not worth more than $2,500 and never was;" that, on March 20, 1885, Mr. Walker was again tried before the court of first instance, Judge Rosaldo presiding, and again acquitted. From this decision the prosecution again appealed, and, on January 22, 1887, the supreme court of Vera Cruz rendered its final decision, acquitting and vindicating Mr. Walker from all the charges brought against him.

It thus appears that Mr. Walker was compelled to rest for nearly four years under the stigma and charge of theft; that his trial was unduly delayed; that, at the first, he was

not allowed to give bail; that while imprisoned among the vilest criminals and with persons infected by contagious diseases, he was also subjected not only to insult and ill-treatment, but even to attempted assassination; that when, finally, released on bail, he was required to give a most excessive bond, and that, by this treatment, great mental and physical suffering was inflicted upon him, to the extent that his health, previously so good, was then seriously and, as he alleges, irreparably injured.

It further appears that Mr. Walker made direct efforts, through his attorney, to obtain from your excellency's Government pecuniary redress for the injuries done to him, but without success.

Allow me to add that, in my humble judgment, the only bar which your excellency's Government seemed to advance in 1884 against this claim, questionable as that bar would be at any time, namely, the fact that the complainant had not been matriculated in your office as an American, can not now obstruct the consideration of this case, as he holds a certificate of his nationality, issued October 25, 1886, No. 129.

I have purposely gone into the details of this matter, as my Government is very much impressed with the gravity of the complaint, and desires to express the conviction that the Government of Mexico will afford prompt and adequate redress. Therefore, I would respectfully submit the case to your excellency's consideration, and would pray for a subsequent conference to treat on the reparation to be given.

I take, etc.,

THOMAS B. CONNERY.

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[Inclosure 2 in No. 308.—Translation.]

*Mr. Mariscal to Mr. Connery.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, February* 14, 1888.

Mr. CHARGÉ D'AFFAIRES: I have the honor to acknowledge receipt of your note of date of yesterday, relative to the case of the American citizen Howard C. Walker, which was in the year 1884 subject of correspondence between your legation and the department in my charge.

It gratifies me to advise you that I will examine your said note and its inclosures, and that I will duly reply thereto.

I reiterate, etc.,

IGNO. MARISCAL.

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## No. 770.

*Mr. Bayard to Mr. Connery.*

No. 270.] DEPARTMENT OF STATE,
*Washington, February* 27, 1888.

SIR: I herewith transmit for your further information in connection with my No. 269, of the 24th instant, a copy of a letter from Hon. Wm. G. Laidlaw, a member of Congress from New York, dated the 24th instant, covering a letter to him from Mr. S. H. Bradley, of Jamestown, with which is inclosed a letter from a resident of Ventanas, in the State of Durango, Mexico, in relation to the arrest of a man named Wood, supposed to be Oliver Woods, by Mexican troops, for alleged complicity in some of the misdeeds of Bernal's band. The writer of the letter from Ventanas expresses disbelief in the alleged complicity of Wood, and states that he fears the troops intend to put him to death.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 270.]

*Mr. Laidlaw to Mr. Bayard.*

WASHINGTON, D. C., *February* 24, 1888.

SIR: I received the inclosures late this evening by mail. I beg to call the immediate attention of the State Department to their contents.

The man Wood, or, as he is called, "Don Bull," seems to be in great danger, and if not now too late something might be done for his safety.

The letter of Mr. Bradley contains a few lines of criticism on our Government, which, if not erased as not respectful, I would beg leave to say this: That the letter was only intended for me by him, but it is necessary to a full understanding of the case, and I can not take time to have him rewrite it.

Very respectfully, etc.,

W. G. LAIDLAW.

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[Inclosure 2 in No. 270.]

*Mr. Bradley to Mr. Laidlaw.*

[Extract.]

JAMESTOWN, N. Y., *February* 23, 1888.

FRIEND LAIDLAW: The inclosed letter explains itself. The Mr. Wood (Don Bull, as the Mexicans call him) is an old man, of whom my friend Fred. S. Powell, of this place, bought his ranch, and makes his living by furnishing supplies from the ranch to the mining camp at Ventanas. Mr. Powell says Bull is honest, and has done nothing but what in his exposed position he was obliged to, and nothing criminal, and the writer, Joel Summery, is personally known to me, and I can vouch for what he says. He is in Ventanas in the interest of Mr. Powell and myself. Wish you would have our Government move in this matter at once. Wish you would do all possible to have our Government move in this matter at once. By telegraph if possible. Ventanas is in the State of Durango.

Yours, etc.,

S. H. BRADLEY.

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[Inclosure 3 in No. 270.]

*Mr. Summery to Mr. Powell.*

[Extract.]

VENTANAS, *January* 5, 1888.

FRIEND FRED.: I am well and at work the most of the time. I lost Saturday on account of a painful circumstance, of which I now write—in fact the object of this letter. The town is now full of soldiers. I wrote you in my last that Eraclio Bernal was among the dead. With him when killed they found papers implicating many as his aids scattered over the two States of Sinaloa and Durango. They have now shot, without trial, over fifty in the two States. This is perhaps all right in a Mexican point of view; in fact, there is hardly any other way to deal with this people. They brought one from Sanchemas with them, and shot him in the street yesterday. They have in this country an officer, with the pay of colonel, called Ab Hiffe de Alosdada, who possesses an unlimited amount of power, something like the destroying angels of Brigham Young of the early days of Utah; that is, they have power to kill when caught without trial.

When they first arrived here they arrested Mosonis, of this town, a Mexican, as being implicated in the robbery of this town. I hardly believe it, although I think he is a mean man; in fact, he caused me to lose a mine that I have often wrote you about. Still I think he is innocent of the charge laid against him. Yesterday they arrested Don Bull as also being implicated. Now his offense is this: when Eraclio Bernal was here he made a levy of so much money, say $16,000. The people here could not raise it on short notice.

Don Bull had known Eraclio when he was living at Maquey, and as far as any person knew a good man or rather a good boy. Don Bull done all he could for the town, he convinced Eraclio that it was impossible to raise the whole amount at once, and that he must take papers for part of the amount payable at some future time. On

the above the matter was settled and the money afterwards paid, Don Bull carrying the same to the mountains and delivering the same to the chief or his lieutenant. Now during this waiting Eraclio and some of his men were often at the ranch for supplies, took any and everything they wanted without paying one cent for the same; in fact they were so persistent in their demands that Wood was compelled to leave the ranch and come and live in town. He has not dared to live on the ranch for seven months during all this time. Either Eraclio or some of his men have visited the ranch from time to time in hunt of supplies. There has been nothing for them to get at the ranch for seven months. He is also accused of delivering to said chief four guns and ammunition for the same. This accusation I am sure is false, as I was at the ranch so often about that time that I would have surely known had he left to purchase rifles.

Monday, January 6. The soldiers have left, taking Don Bull with them. We done all we could in our power to get them to send him to Durango for trial or try him here. They refused all offers we made them. I sent a messenger to Gilman to have him meet him in Sanchemas to see if he can get him tried there. They say they are ordered to take him to the city of Mexico for trial. This is doubtless a grave offense against our Government to take an American citizen by military, without even a preliminary examination, away from friends and home to a distant city for trial. We fear they do not intend to try him, but will leave him on the road, as they do all their Mexican prisoners. He has took one Mexican with him, Masonis has taken two, so I think we will, in the course of time, know his fate, unless they force the mozos to return. In that case they will say they tried to escape and they had to shoot them. I am almost certain he is innocent of any crime against this Government.

Now, if it is possible to get our Government to move in the matter I hope they will do it quickly. All the consuls we have in the country will be informed as soon as possible. I am not afraid of the result if he gets a fair trial. Justice will not convict him under the circumstances.

Yours, etc.,

JOEL SUMMERY.

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## No. 771.

### *Mr. Bayard to Mr. Bragg.*

No. 4.] DEPARTMENT OF STATE,
*Washington, March* 6, 1888.

SIR: The case of Henry Brudigam, a citizen of the United States, confined in the jail at Chihuahua during more than three years past, on the charge of murder committed upon one Domingo Steiner, has heretofore been the occasion of dispatches from your legation to this Department and instructions in reply, to remonstrate against the oppressive delay in the prosecution of the case.

With instructions No. 220 of December 3, 1887, there was sent to Mr. Connery a copy of dispatch No. 15 of October 29, 1887, from Mr. Heimké, United States vice consul at Chihuahua, reporting the acquittal and release of Mr. Brudigam, and it appeared to the Department that the impression that he was innocent and of the weakness of the charge against him, which had been easily arrived at here, was sustained by the verdict, with which I ventured to express satisfaction, although regretting that justice to this American citizen had been so long deferred.

There has recently been handed to me by Mr. O. D. Barrett, of Washington, copy of a letter (of which transcript is herewith inclosed) addressed under date of 17th February ultimo, by Mr. Brudigam and a fellow-prisoner named Fred. Ficken, whose citizenship is not stated, but who is said to have been the business associate of Mr. Brudigam, from which letter it appears that, after having been acquitted as aforesaid on the 29th of October last, Mr. Brudigam (with Mr. Ficken) was re-arrested on an appeal of the public prosecutor, and a second trial ordered, which

took place January 26 and 27, 1888, resulting in conviction, entailing capital punishment, which sentence was pronounced on the 16th ultimo against both the accused.

In this country, where exemption from being twice placed in jeopardy is one of the most sacred individual rights recognized under a constitutional form of government, it could not but cause a most profound and unfortunate impression were a citizen of the United States, in a neighboring republic likewise under constitutional law, to forfeit his life after a complete and formal trial and acquittal.

Wholly apart from this, the slender and unsatisfactory evidence against Mr. Brudigam, as elicited in the protracted proceedings of the first trial, could not, in the absence of new and conclusive evidence brought out on the second trial (of which the Department has no information) in impartial minds, justify a reversal of the former verdict of acquittal.

These considerations, which, however, for want of later details, I am as yet unprepared to urge upon the Mexican Government as grounds of complaint, seem abundant to justify an inquiry, coupled with a request for a stay of execution of the sentence until the result of such inquiry shall have been communicated and an opportunity afforded to this Government for an examination.

I accordingly sent to you on the 5th instant an open telegram in the following words:

BRAGG, *American Minister, Mexico:*

Henry Brudigam, American citizen, after three years' detention at Chihuahua on charge of murdering Domingo Steiner, was acquitted and released October 29 last, re-arrested November 2 and new trial ordered, which resulted in conviction 16th ultimo. You will ask information in the case and urgently request stay of execution until this Department can examine Mexican reply.

Mr. Heimké's dispatch of October 29, 1887, is the last report in the case from the consulate at Chihuahua. He has been directed to report the facts of Mr. Brudigam's second trial both to the Department and directly to the legation in Mexico.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 4.]

*Mr. Brudigam to Mr. Butler.*

CARCEL MUNICIPAL,
*Chihuahua, Mexico, February* 17, 1888.

DEAR SIR: As a known champion of liberty and justice, as a friend to the oppressed, we beg leave respectfully to submit the following brief synopsis of our wrongs at the hands of the Mexican authorities, and to request your advice and influence with a view to obtaining that impartial judgment which alone the evidence in the case admits and which the chicanery and corruption and circumlocutory action of these Mexican courts have perverted.

On the 9th of February, 1885, a jeweler, by name D. Steiner, was robbed and murdered in the city of Chihuahua, Mexico, and his store plundered. The audacity of the crime in connection with the popularity of the murdered man incited to action the whole city with a view to bringing the criminals to justice. The undersigned were conducting a bakery in Chihuahua at the time of the occurrence above narrated, and being acquainted with deceased felt in common with the populace a just indignation at the act and a keen desire to ferret out the perpetrator. With this object in view, I called upon the chief of police and left with him my watch, which I had purchased of Mr. Steiner some months previous to the murder, hoping it might be of service in detecting the

guilty parties, as I knew Mr. Steiner had other watches at the time of his death like the one I had purchased of him. Three or four days subsequently I sent for my watch. In the mean time there had been no arrests made, nor so far as I knew any developments throwing light upon the case. In a few months I was arrested upon a minor charge and imprisoned. I was then catechised with reference to the watch by the authorities, who, ignoring my action with the chief of police, setting aside the evidence of three competent witnesses that I had bought the watch of Mr. Steiner, they actually refused to accept as testimony the identical bank check, properly authenticated, with which I paid for the watch. I was then formally charged with the murder of Mr. Steiner. Two weeks afterwards my associate in business was also arrested upon the same charge, and we were both imprisoned.

On the 19th of November, 1886, having been in prison since May, 1885, the agente del ministerio publico decided there were no grounds for prosecution. The case then went to the supreme court, and his decision was reversed and a trial ordered. In May, 1887, we were notified that our trial would commence. We were not present at court, but about six weeks from date of notification we were informed that the agente del ministerio had refused to prosecute, and consequently our lawyers did not make any defense. On the 29th of the following October we were released from confinement and declared *not guilty*. On the 2d of November we were re-arrested on an appeal of the procuiator, a new trial ordered, which took place January 26 and 27, 1888. We were both present at the trial. There was no evidence whatever tending to implicate either of us, yet the prosecuting attorney, in summing up the case, expressed it as his *opinion* that we were *guilty*, although no *legal evidence* had been submitted. We received our sentence on the 16th instant—*capital punishment*. I have given a brief outline of the case to enable you to base intelligent action upon it. The consul here has no standing with the authorities, and we are without friends or money. This appeal to your known generosity is the last lingering hope of despairing men. You have the influence with our Government to obtain for us a fair and impartial trial and the legal acumen to grasp at once the case in all its bearings and favor us with your counsel and advice. The inclosed copies of letters is all the correspondence had by us pertaining to the case.

Very respectfully, etc.,

HENRY BRUDIGAM.
FRED. FICKEN.

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## No. 772.

### *Mr. Bragg to Mr. Bayard.*

No. 5.] LEGATION OF THE UNITED STATES,
*Mexico, March* 8, 1888. (Received March 19.)

SIR: Upon receipt of your telegram of the 5th instant I addressed Mr. Mariscal a note on the case of Henry Brudigam, copy whereof I now inclose, and which I trust will meet with your approval.

I also inclose translation of a note from Mr. Mariscal, who has asked an explanation from the governor of Chihuahua.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure 1 in No. 5.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, March* 6, 1888.

SIR: I have the honor to advise you of a dispatch from my Government, received last evening, in effect that one Henry Brudigam, an American citizen, after three years' detention at Chihuahua, on charge of the murder of one Domingo Steiner, was tried, acquitted, and released October 29 last, but was *re-arrested for the same crime* on November 2, 1887, and tried and convicted on the 16th ultimo. Whether sentenced or not my Government is not advised. The fact, as alleged, of a re-arrest, trial, and conviction, after trial and acquittal for the same crime, if true, presents a grave question, requiring the intervention

of my Government for the protection of an American citizen, as it would seem to be an act in violation of one of the fundamental guaranties of the Constitution of the United States of Mexico, which has recognized as a governing principle among civilized nations, that the plea of *autrefois acquit*, if found true, is always a bar to a conviction. My Government is fully impressed with the belief that the merely calling attention to your excellency of the case will lead you to recommend such action by your Government as will cause a suspension of sentence and a prompt examination into the facts, to the end that justice and the principles of law and good government may prevail.

I am instructed to represent to your excellency that the earlier examination which can be made into the facts, and information given to my Government of the result of such examination, will prevent complications and any bitterness of feeling that might arise by any unnecessary delay.

Trusting that my application to you will meet with a prompt and favorable response, and that my Government may be advised of the progress and result of your investigations, with renewed assurances to your excellency of my highest esteem,

I remain, etc.,

EDWD. S. BRAGG.

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[Inclosure 2 in No. 5.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, March* 7, 1888.

Mr. MINISTER: I have the honor to answer your excellency's note, dated yesterday, relative to the case of the American citizen Henry Brudigam, informing you that I have to-day forwarded your note to the governor of the State of Chihuahua, and have requested him to advise me as speedily as possible touching the acts complained of.

Reserving the satisfaction of communicating to your excellency as soon as received the reply of the governor, I reiterate, etc.,

IGNO. MARISCAL.

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## No. 773.

*Mr. Bragg to Mr. Bayard.*

No. 6.] LEGATION OF THE UNITED STATES,
*Mexico, March* 9, 1888. (Received March 19.)

SIR: Last evening I received your instruction, No. 270, of 27th ultimo, addressed to Mr. Connery, and relative to the arrest of Oliver Woods, at Ventanas, Durango, and I to-day wrote a note to Mr. Mariscal, copy of which I inclose. My presentation of this matter I hope will meet with your approval.

I will promptly forward to you any information the Mexican Government may furnish.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 6.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, March* 9, 1888.

SIR: I have the honor to advise your excellency of a recent dispatch from my Government, expressing increased solicitude for the personal safety of Oliver Woods (Don Bull), an American citizen residing at Ventanas, State of Durango. This man was the

subject of a note to your excellency under date of February 18 last from Mr. Connery, chargé d'affaires of this legation at that time, and in reply to which your excellency was pleased to respond, conveying the gratifying intelligence of instructions from your excellency's Government to the governors of the States of Sinaloa and Durango respectively, as follows:

"I have just received your note. * * * I at once communicated with the governors of the States of Sinaloa and Durango, requesting by telegraph that in case the said Woods had been apprehended, they should take care that he be tried under all the guaranties granted to the accused by the constitution and the laws," and also the reply thereto from the governor of Sinaloa, as follows: "I will bear in mind the request you are pleased to make to the effect that, in case the American, Oliver Woods, is arrested, he may be tried under all the guaranties which the constitution and the laws grant. I have so advised the prefects of Cosalá and San Ignacio, where the pursuit is prosecuted of the dispersed remnants of Bernal's band."

But this legation is without information as to the action taken by the governor of Durango in response to the instruction.

The advices now received inform me that *Mr. Woods was arrested on the 6th day of January*, 1888, *at Ventanas, Durango, and taken into custody by the military;* that application was made to the power having him in custody for his retention and trial in the State of Durango, which was refused, the refusal being accompanied by the declaration that the prisoner would be conducted to the city of Mexico for trial; and upon the same day (as it was given out) the prisoner started under military guard for this city, and since which time no information has been received by my Government, or at this legation, of his whereabouts. Mr. Woods is represented as being an old gentleman of exceptionally good character, and of a quiet and inoffensive disposition.

The charge upon which he was arrested is supposed to be "complicity with the bandit Bernal in the various murders committed and outrages perpetrated by him and his band of brigands," a charge so much at variance with the course of the whole life of Mr. Woods, and so repugnant to his character, that its truth seems highly improbable, to say the least.

My Government has no desire to shield him from the fullest punishment for his crime, if he be guilty, and only interests itself to the end that his trial be as speedily had as may be consistent with a full opportunity given him to produce such evidence as he may have to establish his innocence of the grave charge made against him, if he be in fact innocent and that he have humane treatment pending his being in custody and trial, all of which my Government is assured he will receive upon the direction of your excellency's attention to the case.

I am directed to express to your excellency that the increased anxiety of my Government in this case does not arise from any fear or distrust of the action of the Federal Government of Mexico, but measurably from the lack of response (so far as my Government is advised) by the governor of the State of Durango to the instructions given as stated in your excellency's note hereinbefore referred to, and from the total lack of information as to what has been done with the accused since his arrest and departure from his home, in close custody, on the 6th of January, 1888, as hereinbefore stated.

And it is only to prevent the possibility of any misadventure befalling Mr. Woods before his trial that I am directed by my Government to inform your excellency of its increased apprehension, lest some evil shall have befallen him in the long time that has elapsed since his arrest; and its earnest desire that it may be advised, so speedily as may be consistent with your excellency's public duties, of all the information now in the possession of your excellency's Government touching the facts of this case, including the location and status of the prisoner.

With full confidence and trust that this application will be favorably considered and promptly acted upon by your excellency, I have the honor to reiterate, etc.,

EDWD. S. BRAGG.

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## No. 774.

### *Mr. Bayard to Mr. Bragg.*

No. 8.] DEPARTMENT OF STATE,
*Washington, March* 15, 1888.

SIR: Referring to the subject of the murder of Leon McLeod Baldwin, a citizen of the United States, of which Mr. Connery informed me in his dispatches No. 239, of October 4, 1887, and 251 of October 19,

1887, I have now to call your attention to the statements presented to this Department in behalf of the widow of the murdered man, and the investigations made by Mr. Sutton, consul-general of the United States at Matamoros, during his recent tour of inspection. From the statements so furnished, and inquiries so made, the facts in the case seem to be established beyond any reasonable doubt. It appears that Mr. Baldwin, at the time of his death and for a number of months previous thereto, was employed as a mining engineer and superintendent by W. W. Carroll, esq., and others, who are citizens of the United States residing in the State of Durango, Mexico, and extensively engaged in mining and ranching near the village of Ventanas. The Valenciana mine, the scene of the murder, is owned by Mr. Carroll and his associates, and is situated about 8 miles from the town of Ventanas, which is itself distant about five days' travel by mule-path from the city of Durango, with which it is now connected by telegraph.

On August 19, 1887, the day of the murder, Mr. Baldwin was engaged in making an inspection of the mining property of his employers, and rode out upon a mule to the Valenciana mine. While in the act of alighting he was suddenly fired upon and dangerously wounded by two well-known outlaws, named Carlos Martinez and Vicente Becerra, who had secreted themselves behind some rocks near the mouth of the tunnel which led into the mine. Mr. Baldwin, although seriously wounded, was able to retreat into the mouth of the tunnel, which was then occupied by several Mexican employés of the company. A parley ensued between the miners and the assassins, in which the latter threatened to attack the unarmed miners if Mr. Baldwin were not given up, but promised that if he would come out of the tunnel and surrender himself they would treat with him on a money basis and do him no harm—in other words, would hold him to ransom. Relying upon this promise and supposing that he could purchase his release, as had been done in other cases hereafter to be stated, Mr. Baldwin surrendered himself, was permitted to mount his mule, and was led away. After he had been gone some minutes the miners heard five shots fired, and following the direction from which the sound came they found Mr. Baldwin lying dead. It appeared that he had been shot through the head, and there was also a wound upon his person which indicated that he had been struck with some blunt weapon.

This cruel and unprovoked murder is not by any means, it must be observed, the first occurrence of the kind at Ventanas and its immediate neighborhood. The evidence seems to be clear and satisfactory that for some months previous to August last bandits under various leaders have robbed, murdered, and levied contributions on all who had had anything worth taking; and that during this period they have dominated a large section of country in that mountainous region, where they have enjoyed the sympathy and assistance of many of the inhabitants.

Specific instances of outrages committed by these banditti upon citizens of the United States are not wanting.

Previous to the 29th of May, 1886, it would appear that the immediate neighborhood of Ventanas enjoyed a reasonable degree of order and security. On that day, however, an organized band under the command of one Eraclio Bernal took forcible possession of the town of Ventanas, seized the property and mines owned by Mr. Carroll and his associates, as well as other property owned by certain other foreign residents, and demanded a tribute of several hundred dollars as a condition for surrendering the property so seized.

The persons who thus forcibly captured the town imprisoned at the same time several of the inhabitants, foreign and native, among whom was Don Tiburcio Quiros, the *jefe político* of the place, who was within two or three days afterward murdered by them in cold blood. Mr. Carroll and the other foreign residents appealed to the Mexican Government through its duly constituted authorities for protection from these outlaws; but protection was not furnished, and they were forced to pay to Bernal and his companions the ransom thus levied. The payment of this tribute they hoped would result in leaving them for the future unmolested. Events proved that this expectation was unfounded.

Connected with the mining property owned by Mr. Carroll and his associates is a ranch known as the "Ciudad Rancho," which is distant about 18 miles from Ventanas, upon the road to Durango. Messrs. Carroll & Co. employed as superintendent of this ranch an American named James L. Smith. On March 2, 1887, a descent was made upon this ranch by a number of persons, the property was plundered, and Mr. Smith was murdered under circumstances peculiarly atrocious and heartless. As the Department is informed, the party who thus murdered Mr. Smith included in its members the same Martinez and Becerra who subsequently murdered Mr. Baldwin. These assassins are reported to have mingled freely, immediately after Mr. Smith's death, with the people and the constituted authorities of the vicinity. It seems, however, that no effort whatever was made to arrest them, nor any disposition manifested to bring them to justice.

The facts in relation to the murder of Mr. Smith and the plunder of the "Ciudad Rancho" were fully communicated by Mr. Carroll and his associates to the Mexican authorities, and an urgent request was made to send some sufficient and properly organized force to afford protection to American residents. It would appear, however, that the raid by Bernal upon Ventanas in the previous May and the murder of the *jefe político* had entirely paralyzed all efforts to preserve order. No adequate measures, nor, indeed, any serious steps, were taken either to punish the guilty persons or to prevent a recurrence of their depredations.

After the murder of Mr. Smith Messrs. Carroll & Co. employed and sent to their ranch as superintendent another American, named James C. Blanche; he also was murdered by the same gang of banditti on June 23, 1887. After killing Mr. Blanche and plundering the place the criminals rode away to a neighboring village, where they openly stated in the presence of citizens and Mexican authorities that they had killed a foreigner at the ranch, exhibited money which they stated they had taken from the person of their victim, and announced their intention of driving the whole "Gringo" company (meaning Mr. Carroll and his associates in business) out of the country.

This murder and the aggravating circumstances attending and following it were immediately and urgently placed before the Mexican authorities by Mr. W. W. Carroll, who personally called upon the governor of the State of Durango and urged that some effective steps be taken to punish the offenders and give real protection to the Americans of the place. As the Department is informed, the governor of Durango took no efficient measures to comply with this demand, and the notorious outlaws who had been concerned in the above-mentioned murders and robberies remained at large.

On July 8, 1887, Mr. W. W. Carroll was on his way to his ranch to visit Ventanas; when about three hours' ride from the ranch-house he was stopped by two men armed with rifles, who ordered him to proceed

ahead of them up a precipitous hill. He was there brought before the commandant of the party, who, after some talk, robbed him of all the money in his possession, amounting to $153, and released him upon his promise to pay $500 more, which sum Mr. Carroll paid upon the following day.

Soon after this, as the Department is informed, Mr. Swartwout, an American, living about 8 miles distant from Ventanas, was also robbed and held to ransom; but the particulars of this outrage have not been communicated to the Department.

It thus appears that although for some months previous to the 19th of August (the date of Mr. Baldwin's murder) robbery, kidnapping, and homicide had been frequent crimes in that vicinity, and although the facts were perfectly notorious and had been brought to the attention of the Mexican authorities, not only by the representations of Mr. Carroll and others, but also by the fact that one of the victims was a prominent public official of Ventanas, nothing whatever had been done to render life and property secure.

Subsequently to Mr. Baldwin's death, steps were taken which resulted in the suppression of the bands of outlaws who had been principally concerned in the disorder of that neighborhood. On August 29, ten days after the murder of Mr. Baldwin, the same party of brigands captured a place called Durazno, robbed one Don Ignacio Amescua, and took his son and another person captive. This culminating outrage, inflicted upon citizens of Mexico and not of the United States, seems to have excited the Mexican population to such an extent that they voluntarily organized and pursued the robbers, dispersed the band and killed five of their number, among whom appear to have been Martinez and Becerra, the two persons concerned in the murder of Mr. Baldwin.

On October 19 Mr. Connery presented to Mr. Mariscal, verbally, an account of the circumstances attending Mr. Baldwin's death, and he then promised to lay before the Government of the United States the result of an investigation which the Mexican Government had made. Mr. Romero, Mexican minister at Washington, has since that time communicated to this Department certain information received from his Government, and the statements therein contained do not in any material respect contradict the testimony which I have been able to procure and which I have hereinbefore summarized for your guidance. Indeed, Mr. Romero's communications fully establish the fact of the notorious and admitted condition of lawlessness which existed at or near Ventanas for some months previous to the time of the murder of Mr. Baldwin. There is nothing whatever in the evidence before the Department to show any serious attempt on the part of the Mexican Government during these months to restore order or to protect life or property in that part of the country.

There is reason to believe that a desire for plunder was not the sole motive in these repeated crimes; a hatred of the citizens of the United States in general seems to have actuated the criminals, and in this feeling they had the sympathy and active support of a large part of the native population of Ventanas.

Messrs. Smith and Blanche, as well as Mr. Baldwin, were murdered under circumstances so peculiar and aggravated as to show conclusively that it was native prejudice and hatred, in part at least, which led to their killing.

Threats were repeatedly made by the disorderly native inhabitants against the entire "Gringo Company" (meaning Messrs. Carroll & Co.), Mr. John D. Almy, Mr. Edward L. N. Gilman, Mr. George F. Bever-

idge, Mr. W. W. Carroll, Mr. Swartwout, and Mr. Oliver all left Ventanas in fear of their lives, and the evidence before the Department leaves no room to doubt that that fear was abundantly justified by the facts, and would have been shared by any man of ordinary courage and firmness. That the threats against the lives of these citizens of the United States engaged in business in Ventanas were not mere words, is but too clearly shown by the facts. Smith's life was threatened, and he was killed; Blanche's life was threatened, and he was killed; Baldwin's life was threatened, and he was killed. There is no trace of any personal grudge against these men, but there was a general menace and demand that they should quit the country. "No adequate conception," says Mr. Gilman, in his statement to the Department, "can be had of the intense prejudice and hatred by the Mexican inhabitants of Ventanas against foreigners, and especially against Americans."

The circumstances of the cruel murder of Mr. Baldwin lead strongly to the belief that plunder was not its sole, nor indeed its principal, motive. He was shot at from behind rocks. He offered to "treat on a money basis," and immediately after was murdered in cold blood. He was not killed in a personal conflict while trying to defend himself. His murderers did not rob him, and his watch was found upon his person after his death. There can be no escape from the conviction that the motive of the crime, at least, was a passionate race hatred; for there is no pretense of any *personal* disagreement between him and either of the men who were immediately concerned in his death.

The facts which I have given above present, as you will at once see, an issue of great importance, not merely to the family of the murdered men, but to the citizens of the two countries whose business it so seriously affects.

Mexico, in pursuance of a policy of wise development of her material interests, has, by numerous legislative acts and executive decrees, invited foreign capitalists, engineers, miners, and business men of skill and enterprise to unite in bringing into market the great wealth, mineral as well as agricultural, which remains as yet unutilized in her territory. It is not merely for the benefit of Mexico, but of commerce in general, that this invitation should be accepted and successful; and it is due to the Mexican Government to say that the invitation has not only been given earnestly and with every promise of support should it be accepted, but that in many instances the protection thus promised has been bestowed with results at least as beneficial to Mexico as to the parties who thus contributed their skill, money, and energies to further important enterprises.

It is evidently a matter of the utmost importance to Mexico that the immigrants to be attracted within her borders shall be industrious, thrifty, and law-abiding citizens; and it is no less evident that such persons will not risk their persons or their property where they can not feel assured that at least some reasonable effort will be made by the authorities to extend to them the protection of the law.

In the present case it abundantly appears that the citizens of the United States who have suffered from the unchecked lawlessness I have described, were of that class which it has been the constant purpose of the Government of Mexico to attract.

They were not adventurers or desperadoes, such as are always attracted to scenes of lawlessness and disorder. On the contrary, it is unquestioned that they were engaged in useful enterprises on a large scale, which had for their object the development of the industrial resources of the country. No imputation upon the character or conduct of Mr. Carroll or of his associates, or of Messrs. Smith, Blanche, or Bald-

win, their employés, has ever been suggested. It is, moreover, to be especially noted that although for months they all went in daily fear of attack, and although repeated application for protection is said to have been made vainly by them to the Mexican authorities, yet they had not resorted to any extra legal measures of defense. Relying, instead, as they had the right, upon the invitation and friendly disposition of the Mexican Government, and upon its ability to give protection to those who thus were induced to come under its laws and who obeyed them, three blameless and worthy American citizens have been betrayed to their death.

I have already called your attention to the facts which tend to show a negligence of the security of the inhabitants of Ventanas and its neighborhood. The notoriety and frequency of crimes of violence, the prominent position of the victims, the public and open fraternizing of the local officials with the well-known authors of these crimes, the fact that the authorities had such full notice of recent outrages of this class as should have put them on their guard and yet that they remained regardless of their duty, all these conditions concur to indicate an indifference amounting almost to an acquiescence in continued wrongdoing, which would constitute a condition of affairs for which responsibility may justly be said to rest with the Government of Mexico. It appears that the valuable interests supervised by Mr. Baldwin, and his still more valuable life, were left wholly without protection and at the mercy of ruffians by whom he was murdered, and the property under his control irreparably injured. The case thus viewed is one in which the protection promised by and due from Mexico has been so withheld as to make the withholding the cause of the calamity above recited.

It is further to be considered that existing conventional relations between the Governments of Mexico and the United States are of a peculiarly intimate and friendly character, such as befit two neighboring and friendly peoples, and give especial force to the case now presented.

It is impossible for me to doubt that the enlightened Government of Mexico, upon full presentation of the facts of this case, will at once, not merely from its own sense of justice, but in view of the importance of affording due protection to those agencies which bring American energy and capital at her invitation within her boundaries, take prompt measures to render an appropriate redress to the representatives of Mr. Baldwin.

You will therefore lose no time in calling upon the minister for foreign affairs and communicating to him the views herein expressed, and may leave with him, if desired, a copy of this instruction.

I transmit herewith for your personal information, and not for communication, copies* of certain documents relating to this case.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 8.]

MEMORIAL AND PETITION OF JANET M. BALDWIN.

Hon. THOMAS F. BAYARD,
*Secretary of State:*

The memorial and petition of Janet M. Baldwin, a resident of the city and county of San Francisco, State of California, respectfully shows:

1. That she is the widow of Leon McLeod Baldwin, deceased, who was, during his lifetime, a citizen of the United States of America.

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*For Mr. Romero's note of November 4, 1887, see Doc. No. 835, *post*, page 1250; for Mr. Romero's note of November 28, 1887, see Doc. No. 839, *post*, page 1254.

2. That the said Leon McLeod Baldwin was, as your petitioner is informed and verily believes, murdered by armed citizens of the Republic of Mexico, on the 19th day of August, 1887, near a certain gold and silver bearing quartz mine of which he was at said time superintendent, known as the "Valenciana" mine, and situated about eight miles from the town of Ventanas, in the State of Durango, in said Republic of Mexico.

3. That the facts and circumstances immediately connected with said murder are not personally known to your petitioner, but are only known to her through letters and correspondence received by her as the widow of said deceased, and also by other persons, relatives and friends of said deceased, from reliable sources and from credible persons in Mexico, whose names are hereinafter mentioned, who have carefully inquired into the affair, and from said sources and in reliance upon the statements of said persons your petitioner alleges upon her information and belief that said facts and circumstances were as follows, to wit:

That on the said 19th day of August, 1887, the said Leon McLeod Baldwin was engaged in his business as a mining engineer and superintendent in the employ of Messrs. W. W. Carroll, Wallender, Ward, and Almy. The said Carroll and his associates were each and all of them citizens of the United States, residing in the State of Durango, in said Republic of Mexico, and were sometimes designated "The American Company." Said company was engaged in carrying on the business of gold and silver quartz mining near and in the vicinity of said town of Ventanas as aforesaid, with the full permission, and under the promise of the protection of the Government of Mexico. That one of the mines owned and worked by the said Carroll and his associates and of which the said Leon McLeod Baldwin was superintendent was th· Valenciana mine, situated about eight miles by the road from the said town of Ventanas. That while the said Leon McLeod Baldwin was so engaged in the ordinary discharge of his duties as aforesaid, on said 19th day of August, 1887, and while he was in the act of alighting from the mule upon which he had ridden from said town of Ventanas to the said Valenciana mine, he was suddenly fired upon and dangerously wounded in the right shoulder by two well-known and desperate Mexican outlaws, whose names are, as your petitioner is informed and verily believes, Carlos Martinez and Vicente Becerra, who had screened themselves behind some rocks near the mouth of a tunnel which led into said mine. The effect of said wound was so serious as to render the wounded man incapable of using his right arm, but he succeeded in getting his pistol in his left hand and retreating into the mouth of the tunnel, which was occupied by Mexican employés of the company.

The assassins at once demanded of the miners that Mr. Baldwin should come out of the tunnel and surrender himself, and said: "We intend to make away with the entire 'Gringo' Company [meaning the 'American' Company] *one by one* in the same way; and unless you bring him out at once we will fire upon you." The head miner reported the demand to Mr. Baldwin and he sent him back to inquire if it was money they wanted, and if so, that he would see that they were paid any sum they might demand. A parley then ensued between the head miner and the assassins, in which the assassins promised that if Mr. Baldwin would come out of the tunnel and surrender himself, they would treat with him on a money basis and do him no harm. Relying upon their said promise and supposing that he could "regulate" [negotiate] with them, as Mr. Carroll had done, as hereinafter set forth, he went out and surrendered himself to them. The assassins immediately ordered him to mount his mule. He succeeded in getting on the animal, but was so badly wounded and was so weak from loss of blood that he could not guide the animal. The assassins called a boy from among the miners and ordered him to lead it, and then departed. After they had been gone some time the miners heard five shots fired, and, upon following the direction from which the sound proceeded, they found Mr. Baldwin lying dead upon the trail, shot through the head, the ball entering his right eye, going through his skull and coming out at the back of his head. They also found a wound upon his person which indicated that he had been struck with some blunt weapon.

4. Your petitioner further alleges, upon her information and belief, as aforesaid, that within a period of three months prior to the occurrences above mentioned, three other grave crimes had been committed against American citizens, employed by, and connected with, said American Company, the facts and circumstances of which are as follows, to wit:

Connected with and forming a part of the mining property owned by the said W. W. Carroll and his associates, otherwise known and designated as aforesaid, as the 'American Company," was a rancho in the vicinity of said town of Ventanas, the superintendent of which was an American, named Smith. The same persons who subsequently murdered Mr. Baldwin, as hereinbefore set forth, with other Mexicans to your petitioner unknown, made a descent upon the said rancho, murdered the said Smith, plundered the rancho, and departed in perfect safety, and thereafter mingled freely with the people and the constituted authorities of the vicinity, who made no effort whatever to arrest them and bring them to justice.

The facts relating to the murder of said Smith and the plunder of the rancho were fully communicated by the said W. W. Carroll and his associates to the proper authorities of Mexico, and an urgent request made to send some properly organized force to afford protection to the American residents and employés of the company. But, as your petitioner is informed and verily believes, no adequate measures were taken to punish the outlaws or prevent a recurrence of their depredations.

After the murder of Mr. Smith as hereinbefore set forth, the said W. W. Carroll and his associates employed and sent to their said rancho another American citizen, named Blanche, to take the charge and superintendency of said rancho. He, too, was murdered by the same gang of Mexican assassins who, after robbing his person and plundering the place, rode away fifteen miles to a village where they openly stated in the presence of the citizens and constituted authorities of Mexico that they had killed the "foreigner" at the rancho, called together their friends, had a fandango or dance, exhibiting money which they exultingly said they had taken from the body of their victim, and viciously announced their intention of driving the entire "Gringo" Company out of the country.

The murder of Mr. Blanche and the peculiarly aggravating circumstances attending and following it were immediately and urgently placed before the Mexican authorities by Mr. W. W. Carroll, who personally urged upon the governor of the State of Durango that some effective steps be taken to punish the offenders and give better protection to the American employés of the company, who were murdered, not alone for plunder, but because they were Americans. The governor promised that he would do something, but your petitioner is informed and verily believes that he did nothing, or that what he did do was weak and ineffective.

Another crime less serious in its consequences, but equally flagrant in its character, was committed by the same gang of Mexican outlaws at or about the time of the perpetration of the foregoing offenses upon Mr. W. W. Carroll, one of the said "American Company." Mr. Carroll, who enjoys the reputation in Mexico of being a man of large wealth, as well as a man of the strictest integrity, was waylaid on the public highway while traveling in the vicinity of the town of Ventanas, forced, upon the threat of being shot if he disobeyed, to walk to the top of a high mountain, taken before a "commandante" or chief, who upon discovering his identity demanded the sum of ten thousand dollars as a ransom for his release. He refused to promise what he could not fulfill. The commandante then ordered him to be taken from the camp and shot. Finding him firm and unyielding in his determination not to pay so large a sum, they began to "regulate" [negotiate] with him, and finally agreed to accept the sum of five hundred dollars, in addition to the sum of one hundred and fifty dollars which they took from his person. He agreed to their terms, was released, and immediately upon arriving at his destination remitted to them the five hundred dollars agreed upon.

5. Your petitioner is further informed and verily believes that a little more than a year preceding the commission of the crimes hereinbefore described and set forth a noted Mexican marauder named Eraclio Bernal, and a band of followers, took forcible possession of all the mines owned by Mr. W. W. Carroll and his associates and demanded a tribute of ten thousand ($10,000) dollars, and in order to enforce their demand took one Don Tiburcio, the sheriff of the county, as a hostage. Mr. Carroll and his associates appealed to the Mexican Government for protection, but protection was not furnished them, and they were forced to pay, and did pay to said Bernal, the sum of ten thousand ($10,000) dollars in monthly installments of two thousand ($2,000) dollars a month.

That notwithstanding said payment Don Tiburcio was shot in violation of the agreement under which he was held, solely upon the ground that he was "suspected of sympathizing with the Americans." The facts relating to this case were laid before the Department of State by John W. Twiggs, esq., of this city, in October, 1886, and, as your petitioner is informed and verily believes, were transmitted by the Department of State to the American consul at Mazatlan for verification, and your petitioner therefore refers to said statement, and makes the same a part of her petition and memorial herein.

6. Your petitioner further alleges, upon her information and belief, that when the occurrences set forth in the last preceding paragraph took place the said W. W. Carroll wrote a letter fully setting forth said facts, and transmitted the same to Daniel Turner, an American citizen residing in the City of Mexico, requesting him to place the same before the Mexican Government and ask for protection. That said communication was placed before the American minister, Mr. Manning, who presented the same to the Mexican Government, and that he was informed by the Mexican Government that "*it had no troops that it could place there.*"

7. Your petitioner further alleges that the assassination of her husband, the said Leon McLeod Baldwin, by Mexican outlaws, was the direct result of the gross neglect of the Mexican Government in failing to protect him against the Mexican prejudice and Mexican hatred which exists against Americans in that vicinity of Mexico, where he was

peaceably engaged in attending to his legitimate business, under the promise of the protection of the Mexican Government. That numerous appeals were made to the constituted authorities of the county, also to the governor of the State of Durango, as also to the head of the Mexican Government at the City of Mexico, as hereinbefore set forth, and that no adequate attention was paid to said appeals. That as late as the 21st day of July, nearly one month prior to the murder of Mr. Baldwin, which occurred, as aforesaid, on the 19th day of August, the said W. W. Carroll applied personally to the governor of Durango for assistance, and, while promises of assistance were freely made, none was given until some time after Mr. Baldwin's murder, and then only ten men were sent to the place of the murder. That during the three months intervening between the murder of Mr. Smith and that of Mr. Baldwin no adequate measures were taken to furnish protection against the murderers, who openly avowed their intention of killing, one by one, the entire "Gringo" [or "American"] Company; and no measures whatever were taken to bring the assassins to justice, or to punish them for their crimes. That an absolute reign of terror existed in that vicinity for a long time prior to Mr. Baldwin's murder, of which the Mexican authorities had full and repeated notice, and said authorities either feared to interfere or were leagued in sympathy with the murderers. That the constituted authorities were openly defied by the murderers, who had at all times the undisguised sympathy of the common people with whom they mingled. The assassins boldly stated to the miners, after they had fired the first shot into Mr. Baldwin, and while he was striving to find safety from them in the darkness of the tunnel, that they "*were going to finish up all the Gringos, one by one, in the same way,*" and subsequently took no pains to conceal their whereabouts or their identity from the people in the vicinity, and enjoyed perfect immunity from arrest by the officers of the county where they dwelt. To such an extent are the constituted authorities still defied, and so formidable is the reign of terror which still exists there, that the said W. W. Carroll and his associates dare not openly offer a reward for the apprehension and punishment of the murderers, but appealed to the said Daniel Turner, a resident of the City of Mexico, and a brother-in-law of Mr. Baldwin, to allow them to offer a reward in *his name*, to avoid the personal danger to themselves which they apprehended from having their names appended to the offer. That for months prior to the murder of Mr. Baldwin, and since said murder, the said W. W. Carroll and his associates and employés have been receiving warnings that their movements were watched, and not to expose themselves to assassination. So well aware was Mr. Baldwin of the danger that surrounded him on every hand that, before starting out on the tour of inspection on which he was engaged when he was murdered (and over a month before he was murdered) he wrote to his wife, your petitioner, to his only son, Murray Baldwin, a lad fifteen years of age, to his friend Mrs. Abbie M. Parrott, a lady of San Francisco, to his only brother, General John M. Baldwin, of the city of Los Angeles, California, such letters as he would have written if he had known he was going to his death; and left instructions that they be transmitted in case he did not return. Each and all of said letters have since been delivered to the said persons for whom they were intended, and in them he bears testimony to the reign of terror which then, and for a long time prior thereto, had existed, and to the threats that had been breathed against the American residents. In one of his letters, written about one month prior to his death, to his friend John W. Twiggs, assayer of the United States mint in San Francisco, Mr. Baldwin says: "So extreme is the hatred of foreigners that prevails among the people in that vicinity (referring to Ventanas) that to kill a 'Gringo,' no matter how, is regarded as a deed of prowess, and to rob one elicits the covert approval of the lower classes."

8. Your petitioner further states, upon her information and belief, that no merely personal motive entered into the commission of any of said crimes. That no personal hatred or spite existed against either the said Mr. Smith, Mr. Blanche, Mr. Carroll, or Mr. Baldwin by the perpetrators of the outrages against them That the said Carroll and his associates do now and have always conducted their mining and other business in Mexico in a fair and upright manner, paying to their employés ample and satisfactory wages, and furnishing to them a far better class of supplies than is usually furnished to miners in Mexico. That neither said W. W. Carroll nor any of his said employés ever, at any time, had quarrels or personal altercations of any character, either with the perpetrators of said crimes, with the inhabitants of the country, or with the constituted authorities thereof; but each and all of said crimes were perpetrated against the victims because they were Americans and because of the prejudice and hatred which existed against them as Americans.

9. Your petitioner further alleges, upon her information and belief, that numerous other outrages and crimes not hereinbefore mentioned or alluded to were committed against American citizens in the vicinity of said town of Ventanas, within three months prior to the assassinations and crimes hereinbefore described and set forth. That among said crimes so committed against Americans was that against an unoffending American citizen named Swartwout, who was robbed by the same band who perpetrated the other

outrages hereinbefore alluded to. Another American citizen, named Gilman, sold and disposed of his interest in valuable mines near Ventanas for whatever price he could get, in order to be able to leave the country and avoid the reign of terror which existed there.

10. Your petitioner is further informed and verily believes that in less than two weeks after the assassination of her husband, the said Leon McLeod Baldwin, as hereinbefore set forth, the same band of Mexican outlaws visited a Mexican village named Durazno, distant about one day's ride from Ventanas, robbed a Mexican merchant there, kidnapped his son, and captured and carried away one of the inferior judges of the village, for the purpose of ransom. This outrage committed against Mexican citizens aroused the Mexican inhabitants. Then, and not until then, did the citizens (*not the constituted authorities*) arouse themselves. They pursued and overtook the criminals, killed Carlos Martinez, one of the assassins of the said Leon McLeod Baldwin, wounded Vicente Becerra, another, and killed also Esporidon Morales, who had previously threatened Mr. Baldwin's life for having discharged him from one of the mines, but who did not, as your petitioner is informed, participate in his murder.

11. Your petitioner further alleges that she has been advised by her counsel and she verily believes that if the facts hereinbefore set forth are true, she is, by the comity of nations, and under the principles of international law, legally and equitably entitled to demand from the Mexican Government a reasonable and proper money indemnity for the loss she and her son have sustained through the culpable neglect of that Government in failing to furnish protection to her husband, the said Leon McLeod Baldwin, an American citizen, against the lawless citizens of Mexico, after due and timely notice had been given to said Government to render such protection. And she is further advised, and she verily believes, that one hundred thousand ($100,000) dollars in gold coin of the United States would be a just and reasonable sum for her to demand and receive as the amount of such indemnity.

Wherefore, your petitioner presents this her memorial and petition to the Department of State and prays:

First. That the honorable Secretary of State will immediately institute such an inquiry as in his wisdom he may deem advisable as to the truth of the facts hereinbefore set forth, and that if the same are verified as true, that—

Second. The honorable Secretary of State will make such request, or demand for indemnity, upon the Mexican Government, as the customs and usuages of nations require, and that in case such request or demand shall not be heeded, or shall be refused, that this memorial and petition may be transmitted to, and laid before, the Congress of the United States, for such action by that honorable body as it, in its wisdom, may deem proper, and—

Third. That your petitioner may be duly notified of all steps and proceedings that may be taken by her Government in her behalf.

Dated San Francisco, California, October 6th, 1887.

JANET M. BALDWIN,
*Petitioner.*
HENRY N. CLEMENT,
*Attorney and Counselor for Petitioner,*
*528 California Street, San Francisco, California.*

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

Janet M. Baldwin having been duly sworn says that she is the petitioner in the foregoing petition and memorial; that she has read the foregoing petition and memorial and knows the contents thereof; that the same is true of her own knowledge, except as to the matters therein stated on her information or belief, and that as to those matters she believes it to be true.

JANET M. BALDWIN.

Subscribed and sworn to before me this sixth day of October, A. D. 1887.

HOLLAND SMITH,
*A Commissioner for the Court of Claims for the State of California,*
*residing in the City and County of San Francisco.*

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[Inclosure 2 in No. 8.]

TESTIMONY OF EDWARD L. N. GILMAN.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

I, Edward L. N. Gilman, being duly sworn, do upon my oath say:

I have carefully read the memorial and petition of Janet M. Baldwin to Hon. Thomas F. Bayard, Secretary of State, and am conversant with the facts therein set forth.

I am the "Gilman" mentioned in paragraph nine (9) of said memorial and petition who "sold and disposed of his interest in valuable mines near Ventanas for whatever price he could get, in order to leave the country and avoid the reign of terror which existed there."

Said statement is strictly true. And said statement is not only true, but I am able to testify upon my own knowledge that so far as said memorial and petition assumes to describe the disordered state of society that existed at Ventanas after the Bernal raid in May, 1886, and the extremely dilatory and inadequate measures adopted by the Mexican authorities to restore order after said raid, it *understates* instead of overstates the facts. From the calm and judicial statement of the facts as they are presented in said memorial and petition, no adequate conception can be had of the intense prejudice and hatred of the Mexican inhabitants of Ventanas against foreigners, and especially against Americans, nor of the unsafety and insecurity of life and property which existed there by reason of said disorder, prejudice and hatred, nor of the gross and continued neglect of the State and National Government of Mexico in their failure to furnish protection after repeated and reiterated demands had been made for such protection.

I am technically a British subject, having been born in the Dominion of Canada; but I came to California when a mere lad of seventeen years of age, and remained in California and the adjoining Territories, engaged in mining until 1870, when I went to the State of Durango, in the Republic of Mexico, to engage in the same pursuit. I regard myself therefore more as an American than as an Englishman by reason of my long residence in the United States; yet I have during my seventeen years residence in Mexico, uniformly found it more to my advantage to be known when necessary as a British subject than as a citizen of the United States, for the reason that I have found by experience that subjects of Great Britain are better protected, and more safe and secure, and are subject to less native prejudice than the Americans, or "Gringos," as they are sneeringly denominated by the lower classes in Mexico.

I was one of the first foreigners that engaged at mining at Ventanas. I went there soon after I arrived in Mexico, in 1870, and I resided and carried on my mining business there continuously until July, 1887, when I sold out at a sacrifice all my mining property, and left the place on account of the extreme insecurity to life which existed there at that time and the threats which constantly came to me that the entire foreign population would be killed or driven out of the country. The foreign population of Ventanas consisted almost exclusively of myself and a portion of my employés and W. W. Carroll and his associates (known as "The American Company"), and a portion of their employés. Both Carroll & Co. and myself were engaged in the business of quartz mining—our mines being located in the vicinity of Ventanas in various directions from eight to twelve miles distant from the village. Carroll & Co. also owned and carried on a large cattle ranch of several thousand acres, known as the *Ciudad rancho*, distant about eighteen miles from Ventanas, on the road to Durango.

Ventanas is not an isolated mining camp in an inaccessible and out of the way place, but is a village of from 300 to 400 inhabitants, situated on the bank of a stream called the *Rio del Presidio*. Up the stream from Ventanas, about five miles distant, is a village or settlement of 50 or 60 inhabitants called *Palmarelo*. Down the stream from Ventanas, about eight miles distant, are the *San Cuyetano*, or Eureka mines, owned by Carroll & Co., where there is a settlement or village of perhaps 300 inhabitants, mainly native employés in the mines. On the same side of the stream on which Ventanas is situated, and up the steep mountain about eight miles away, is the *Valenciana mine*, owned by Carroll & Co., where Leon McLeod Baldwin was murdered. On the opposite bank of the stream, on the highlands, about eighteen miles distant from Ventanas, is the *Ciudad rancho*, where Mr. James L. Smith and James C. Blanche successively met the sad fate that befell them. A few miles distant from the *Ciudad rancho* is the village of *Ciavarria*, having a population of about 200 persons; and still further away, on the road toward Mazatlan, is the village of *Durasnito*, numbering from 200 to 300 inhabitants.

Ventanas is a *municipality* or village in the *Potedo* district, or, as we would say, "county," of San Dimas. The city of San Dimas, which is distant from Ventanas about forty-five miles, is the capital, or, as we would say, "county seat," of the district of San Dimas. As a municipality, Ventanas is vested with an *ayuntamiento*, or "town council;" a *jefe municipal*, or chief executive officer and conservator of the peace, whose functions are quite extensive and include the powers of a mayor and under sheriff combined; a *juez primer conciliador*, or inferior judge, whose jurisdiction is considerably greater than our justices of the peace; and also a *jefe de policia*, or chief of police.

At San Dimas, the capital of district of San Dimas, is the higher executive officer of the district, called the *jefe politico*, whose powers are much greater than those possessed by our sheriff, and the *juez de primer instancia*, or court of original jurisdiction, answering to our superior or district courts. By the political system of Mexico all the *jefes* or executive officers, as well as all the *juez* or judges, both superior and inferior, are appointed by the highest executive and judicial officers of the state.

During the entire sixteen years I had been engaged in mining in Ventanas and had made that village my headquarters I had never feared or had cause to fear the least danger to my personal safety from the native inhabitants by reason of any prejudice against me as a foreigner until after the noted Eraclio Bernal, with his band of sixty followers, rode into Ventanas on the evening of Saturday, the 29th day of May, 1886, and made prisoners of the entire foreign population, together with two of the native officials of Ventanas, viz: *Don Tiburcio Quiros*, the *jefe municipal*, the chief executive officer of Ventanas, and *Nicolas Trejo*, the *jefe de policia*, or chief of police.

As I have hereinbefore stated, the foreign population consisted of Messrs. Carroll & Co., known as the "American Company," and a portion of their employés and myself and a portion of my employés. We were all taken for "Gringos" and all locked up in the house of Mr. Carroll, which was improvised by Bernal as a prison The next day our employés were discharged, but Mr. A. O. Wallender, who was the only member of the firm of Carroll & Co. at Ventanas at that time, Mr. Leon McLeod Baldwin, the superintendent of Carroll & Co.'s mines, and myself were retained and held in custody together with Don Tiburcio Quiros, the *jefe municipal* of Ventanas, who had distinguished himself as a brave, conscientious, and efficient officer, and against whom some of Bernal's band had a very pronounced hatred, charging him with being "a friend of the Gringos," because he had prosecuted and punished some of the men who were now members of Bernal's band, for disorderly conduct and petty offenses. Messrs. Wallender, Baldwin, and myself, with Don Tiburcio Quiros, were held prisoners about twenty-four hours after the release of our employés, and we were not released until we had "regulated" [negotiated and settled] with Bernal as to the amounts we should pay him as a ransom for our release. A full and accurate account of the merchandise, arms, ammunition, horses, mules, saddles, bullion, money, and other property seized and carried away by Bernal and his band, together with the amounts of money subsequently paid to him by W. W. Carroll and his associates, has already been rendered and sent to the office of the Secretary of State, and need not now be set forth in this affidavit, suffice it to say that that raid was a direct loss to me in money and property taken by Bernal's band of about $4,000, and to Messrs. Carroll & Co. of about $10,000.

During the time we were held prisoners by Bernal we had frequent conversations with him as to his attitude toward us, his political status and position. He indignantly denied the charge that he was a robber or bandit. He claimed that he was a political character. He said he was a *reformer*. He read to us his "*Plan de Politico*," or political platform, wherein he set forth that his aim was to be the governor of the State of Sinaloa, so as to give the inhabitants of that State a better government than they then had. He had a secretary with him, who kept a pay-roll of his men. While there he paid each of his men on account $50 in goods out of the store of Carroll & Co. The property and money taken from us by him he claimed to be *prestamos* or forced loans, to be repaid to us when he succeeded in his designs, giving us receipts or bonds in due form to that effect. He maintained his forces while there on a strictly war footing, had his pickets out in all directions, as if in an enemy's country, enforced military discipline, and did no harm to the native inhabitants.

While at Ventanas Bernal announced his intention to take with him, when he left *Don Tiburcio Quiros*, the *Jefe Municipal* of Ventanas, as a prisoner. Messrs. Wallender, Baldwin, and myself, feeling confident that if he took Don Tiburcio with him his followers would put him to death, plead for his life and urged him to accept a sum of money as a ransom for his release. He "regulated" with us for Don Tiburcio's life. He agreed, though reluctantly, that if we would raise $200 he would give him his liberty. We at once made up a purse and paid him the sum demanded. He then informed us that he would not discharge him at present, but would take him with him one day's journey and then set him at liberty. We were his prisoners, and of course were powerless to protest. He left Ventanas on Monday, the 31st day of May, after being there two days, taking Don Tiburcio with him. He broke both his promises. As if to make his crime as aggravated as possible, Bernal took him, as I afterwards learned, three days' march to a village called *Metates*, where Don Tiburcio's wife was visiting, and then, after ostensibly releasing him, Bernal followed him to the house where he had gone to see his wife, called him out, and shot him down, with his wife and two little children clinging to him and begging for his life. We foreigners sought to save Don Tiburcio, because he was a faithful official, and had, as the chief executive officer of Ventanas, proven himself to be a brave man and an efficient officer. Our solicitude for his welfare and efforts to save his life proved to be the aggravating cause of his death. He was charged with being "in sympathy with the Gringos."

The effect of this Bernal raid upon the native inhabitants of Ventanas and the surrounding villages was demoralizing in the extreme. It changed the whole tone of the community. It unsettled the sober and industrious. It made reckless and impudent the idle and dissipated. It emboldened the lawless and made aggressive the criminal element. A strong and malignant prejudice arose against all of us who were foreigners.

We were all alike denominated "Gringos." A feeling of envy and jealousy against us seemed to have sprung up in their minds. Threats were covertly and even openly made, and came to us with increasing frequency, that the "Gringos" must quit the country or be killed. Sometimes I would hear of these threats against one and sometimes against another, and sometimes they were made wholesale against us all. In this emergency we called upon the *Jefe Politico*, or chief executive officer of the district of San Dimas, for the appointment of *Jefe Municipal* for Ventanas to fill the vacancy caused by the murder of *Don Tiburcio Quiros*, but no one would accept the appointment, unless guarantied a force of armed men sufficient to support him in maintaining order. The *Jefe Politico* was also urged to send a force of soldiers to Ventanas sufficient to overawe the disorderly elements and restore peace and order to the community. He applied in turn to the governor of the State, but no troops were sent. Five months passed away, and no relief came. In the mean time deserters from, or recruiters for, Bernal's band, who had joined him while at Ventanas, began to return. Two bold, reckless, and notorious characters, named *Carlos Martinez* and *Vicente Becerra*, were seen in the vicinity, and were known to have gathered around them a small band of lawless followers. The native inhabitants, who had hitherto been friendly to the foreigners, seemed to have become cold, sullen, and suspicious, and conveyed by their actions and conduct every evidence of their sympathy with the new band of outlaws that had been formed in their vicinity, and took no pains to conceal the threats which were made against the lives of the foreign residents, and which now became so frequent, so malignant, and so pointed, that Mr. John D. Almy, one of the members of the firm of W. W. Carroll, a most kind, upright, and respected gentleman, feeling that his life was in actual danger, thought it imprudent for him to remain longer in Ventanas, and left there, in order to avoid a calamity which he had good reason to fear might befall him if he remained there longer.

About five months after the Bernal raid and after repeated and reiterated appeals had been made to the district, State, and even national authorities of Mexico for aid, a cavalry force, *on foot*, however, of forty men came to Ventanas, under the command of Captain Gomes. I placed a house or *quartel* in Ventanas at the disposal of Captain Gomes for the occupancy of his troops while stationed there; but while he was an honorable gentleman and an efficient officer, his troops were utterly worthless.

Every precaution had to be taken to keep them from deserting. The captain would cause them to march in to the quartel, and then would have to place sentinels at each door and window to keep them in. In spite of all the precautions that were taken, *one-half of them deserted within thirty days.* They could not be trusted, as American and British soldiers are, with leave of absence at reasonable times. If once they got out of camp they ran away. They were, as I have said, utterly useless, especially for the purpose for which they were needed, of running down and catching and killing the roving band of guerrillas, robbers, and murderers that were known to be in the vicinity of Ventanas. The moment these troops were taken out into the adjoining country and divided up into small parties away from the regular beaten trail they were no account whatever. The result was that Captain Gomes simply marched them up and down the main highways, where the enemy *they were ostensibly looking for never came*, and hence Martinez and Becerra and their band were as safe as if Captain Gomes and his twenty men were 100 miles away. Subsequently, during the next few months, one or two other small squads of soldiers came to Ventanas and marched up and down the highways a few times, but none of them ever at any time did what every one in the community agreed that they ought to have done, viz. *find the enemy*, which could have been easily done by leaving the beaten track and following them to the haunts they were known to frequent.

The authorities at Durango, the capital of the State, were frequently urged to adopt the course I have suggested, of sending a few small squads of *mounted* cavalry to scour the country around Ventanas, in order to exterminate the band which was constantly threatening the peace of the community, but the authorities persisted in their own weak and inefficient course, and the result was that the outlaws *Martinez* and *Becerra* and their followers were never met by the soldiers.

This state of things continued until May, 1887, when the first of the series of foul crimes which followed each other in such quick and startling succession was committed by the unprovoked murder of an employee of Messrs. Carroll & Co., an unoffending American named James L. Smith, the superintendent of the *Ciudad Rancho*. The testimony taken at the inquest, held a few hours after the murder by the *Juez* from the adjoining village of *Chavarria*, disclosed a conspiracy between the murderers and the *Corporal* of the rancho, named *Severiano Zepato*. One of the band entered the dining-room of the house in which Mr. Smith was seated by the fire and struck him on the head from behind and then stabbed him. The accomplice, *Zepato*, suddenly departed upon the arrival of the *Juez*, and has not been seen there since. Mr. Smith's life had been threatened, as all our lives had. A remarkable circumstance connected with this case is, that Mr. W. W. Carroll, who was residing at Durango, the capital of the State, 100 miles away, heard that the life of the superintendent of his rancho was threatened. He immedi-

ately started to his relief and arrived there only a few hours after he was murdered. Mr. Carroll subsequently informed me that the loss of his mule on the way caused a delay, which, if it had not occurred, would have brought him to Mr. Smith before he was murdered, but possibly to share the same fate.

At this time threats and mutterings of vengeance against the "Gringos" came to us every day. We heard rumors from many quarters that we would be killed if we did not leave the country. I heard threats made against the life of Mr. Carroll, Mr. Wallender, Mr. Baldwin, and against myself. We all felt very insecure. The presence of the soldiers, handled as they had been, gave us no assurance of protection. I made up my mind to dispose of my property there for what I could get and go to some place where I should feel more secure. Mr. Carroll, after the burial of Mr. Smith at the rancho, came on to Ventanas and remained there until some time after the murder of Mr. James C. Blanche, which occurred about two months later. During that interval I sold all my property at Ventanas to Mr. Carroll at a great sacrifice, in order that I might be able to leave the place and avoid the trouble which I apprehended would come upon all the foreign population of Ventanas, who were indiscriminately called "Gringos," and I now unhesitatingly state that it is my firm belief that if I had remained there it is more than probable that I should have shared the same fate that befel Mr. Smith, Mr. Blanche, and Mr. Baldwin, not because of any particular spite of the native inhabitants against me, but solely on account of the envy, jealousy, and hatred which had grown up there against the Americans or "Gringos," among whom I was included by the disorderly classes then in the ascendency.

The death of Mr. Smith caused two transfers or changes to be made among the employees of Messrs. Carroll & Co. Mr. James C. Blanche, who had previously been the superintendent of the *Valenciana* mine, was sent to take charge of the *Ciudad Rancho*. Mr. Leon McLeod Baldwin, who had previously been stationed at the *San Cayetano* mines, removed his headquarters to Ventanas, in order to enable him to visit with greater facility the *Valenciana* mine, of which he then took charge. These changes took place before I left Ventanas.

I had heard threats against the life of Mr. Baldwin, and I communicated them to Mr. A. O. Wallender, one of the members of the firm of Carroll & Co., by whom Mr. Baldwin was employed; but we were all accustomed to hearing threats made against us, and those against Mr. Baldwin were no more malignant or pointed than many I had heard against all of us, so I did not mention the matter to Baldwin. Mr. Wallender stated that inasmuch as he was one of the firm which employed him he felt some delicacy about mentioning the subject to him for fear Mr. Baldwin might think he desired him to leave the company's employ. I ascertained afterwards, however, that Mr. Baldwin was fully informed of the danger that surrounded him, but, with the instincts of a brave man who had voluntarily accepted employment, would not leave his post in the face of danger, but proceeded as usual in the discharge of his ordinary duties.

I left Ventanas but a few days before the murder of James C. Blanche. I knew Mr. Blanche well and had known him for years. He was a peaceable, unoffending, upright, honorable man, against whom no one could say aught to his discredit. The facts and circumstances of his murder, as also those connected with the subsequent murder of Mr. Baldwin, are correctly set forth in the memorial and petition of Mrs. Baldwin as they were narrated and detailed in Mexico at the time they occurred. I had also some acquaintance with Mr. Baldwin during the two years that he had been there. We were prisoners together under Bernal. He was an educated, scholarly gentleman, and was respected, esteemed, and loved by all who came in contact with him.

There was no *personal* ill-feeling among the people of Ventanas against any of us. We had dealt fairly with them. We had never taken any advantage of them, or oppressed them, or misused them as employees in our mining business. On the contrary, we paid the highest wages paid by any mining companies in the State of Durango, and furnished better supplies to our men. The Bernalites had insidiously instilled into their minds the notion that we were interlopers—that we had come there and gotten hold of all their most valuable mines, and were becoming rich and opulent, while they, the native inhabitants, who ought to have owned the mines, were forced to labor for us. This envy and prejudice against us was engendered by the demoralization which followed the Bernal raid and the gross and criminal inactivity and neglect of the State and Federal Governments of Mexico in failing to send forces to put down the disorder and lawlessness that prevailed at Ventanas. In short, the prejudice and hatred that sprang up against us, and which found universal expression in the epithet "Gringo," was a *political* or *race* prejudice, and did not exist against the native inhabitants, or against any class of the native inhabitants.

In the minds of the lower orders in the vicinity of Ventanas, Eraclio Bernal unquestionably represented, and his name typified, this idea of hatred to the "Gringos." Martinez and Becerra, who aspired to become leaders of a band of the same character, were loud in their denunciations and diffuse in their threats against the "Gringos;" an

whenever they were able, as they expressed it, to "stand up" a "Gringo," and rob him, or "wing" one, by shooting a bullet through him, they were secretly applauded by the native inhabitants of the lower orders, who were then in the ascendency, and they were very readily forgiven and not very diligently pursued for their crimes and depredations against "Gringos."

From my knowledge of the public feeling among the native inhabitants of Ventanas at the time I left there, which was about one month before Mr. Baldwin was killed, I unhesitatingly state it as my opinion that Mr. Baldwin, as well as Mr. Blanche and Mr. Smith, were each and all of them killed because they were "Gringos," and *not* for the mere purpose of robbery and plunder.

So flagrant was the neglect, and so long continued was the inactivity of the Mexican Government in sending relief to Ventanas, and so weak and inadequate were the measures finally adopted for quelling the disorder there, that it was openly charged throughout the State of Durango that *some of the State officials were in sympathy with Eraclio Bernal and were covertly working in his interest.* The proof that this charge was widely and openly made lies in the fact that in September, 1887, the *Periodico Official*, the official paper of the State, contains an article signed by the *Jefe Politico* of San Dimas, *denying* that the officials of Durango were *in sympathy* with Bernal.

I know that there was a widespread suspicion in the State of Durango that there was a secret motive for the marked inefficiency of the measures taken to exterminate Eraclio Bernal, and also to quell the disorder at Ventanas. In this suspicion I did not share, but that such a suspicion was widespread and prevalent can not be denied. I have recently heard that Governor Flores, of Durango, was sent for by President Diaz to go to the City of Mexico to render an account and furnish an excuse for his inactivity; and that while President Diaz accepted the assurances of his integrity and good faith, he nevertheless *reprimanded him for his inefficiency.* This, however, I state on information and belief.

EDWARD L. N. GILMAN.

Subscribed and sworn to before me, this 3d day of November, 1887.

[SEAL.] HOLLAND SMITH,

*A Commissioner of the Court of Claims in and for the State of California, residing at the City and County of San Francisco, and Notary Public of said State of California, residing at said City and County of San Francisco.*

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[Inclosure 3 in No. 8.]

TESTIMONY OF JOHN J. HOLMAN.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

I, John J. Holman, being duly sworn, do upon my oath depose and say:

I have read the memorial and petition of Janet M. Baldwin to Hon. Thomas F. Bayard, Secretary of State, and am conversant with the facts therein set forth. I was in Ventanas prior to and at the time of the Bernal raid upon that village in the month of May, 1886, and with the exception of a very brief absence immediately after said raid of not more than one week, was in Ventanas continuously thenceforward until after the murder of James C. Blanche, which occurred in the month of July, 1887. I have also read the testimony of Edward L. N. Gilman, taken to be read in this case, wherein the condition of affairs at Ventanas is fully described and set forth, and I am able to testify positively and upon my own knowledge that all the statements made by Mr. Gilman in his said affidavit are true and correct. At the time Bernal visited Ventanas on the 29th day of May, 1886, I was employed as a miner by W. W. Carroll & Co., in the San Cuyetano mines, about eight miles distant from Ventanas, but on the Saturday afternoon that Bernal came there I was in Ventanas, where I had gone to draw my salary. I was made a prisoner with Mr. Gilman and all the rest of the foreigners, and was locked up in Mr. Carroll's house for about twenty-four hours, when I was discharged with the other employés, and Mr. Wallender, Mr. Gilman, and Mr. Baldwin, together with Don Tiburcio Quiros, the *jefe municipal* of Ventanas, were retained in custody. Mr. Gilman states correctly all that took place during the two days that Bernal held possession of the place. He omits, however, to state one fact which I well remember, and that is that when Bernal left Ventanas on Monday, the 31st day of May, he proceeded down the river to the *San Cayetano* mines, and that Mr. Baldwin went with him as far as the mines, hoping to effect the release of Don Tiburcio Quiros at that place. We all protested against his venturing off with the treacherous band alone, and tried our best to induce him not to go, but Mr. Baldwin said that he was not afraid, and that they would

not hurt him. He went, and they did not hurt him, but he failed to induce them to release Don Tiburcio Quiros.

On the same morning that Bernal left Ventanas I left also for *Leonoria*, near Mazatlan, to carry the news to the military quarters at that place, and was the first man to arrive there with the news. I immediately started back with my wife, whom I had gone there to meet. We traveled on the road with a small cavalry force of sixty men, who had been sent out from Leonoria to meet Bernal. After going about two leagues we stopped at the village of *Porto San Marcos*. While traveling together I informed the commander of the squad of everything that had occurred at Ventanas, and told him that Bernal had gone by way of the *San Cuyetano's* mines to *Metates*, which was only about one day's journey from the village of San Marcos, where we stopped, and that if he would push forward rapidly I thought he would overtake Bernal or find him in that vicinity.

The commander of the squad stopped at the same house I did at *San Marcos*, and while there we met a *juez conciliador* or inferior judge of *Metates*, who had just arrived from there. The judge told us that he saw Bernal shoot Don Tiburcio Quiros, the *jefe municipal* of Ventanas, six times—that is, saw him fire six shots into Don Tiburcio while his wife and two children were clinging to him—and that the six shots did not kill him. He then called upon one of his band to finish him, and that in obedience to Bernal's command one of the band went up to Don Tiburcio while he was lying on the ground bleeding and dying, and fired another shot into him, which did finish him. The judge further told us that he witnessed the entire affair from his hiding place in the heavy foliage or branches of a large cactus tree, into which he jumped after escaping from Bernal's band during the excitement of the killing of Don Tiburcio Quiros. Bernal had taken the judge prisoner, and had threatened that he would kill him, as soon as he had finished Don Tiburcio, because the judge had been strict in the enforcement of order in the community and had punished some offenders who were now connected with Bernal's band, and they now charged *him* with being the friend of the "Gringos," simply because he had tried to maintain and enforce order and deal out justice impartially. The judge further told us that he remained secreted in the cactus tree, wounded and bleeding from the sharp prongs that fringe the branches of those trees as he had leaped into it, until darkness enabled him to make his escape to the mountains, where he wandered two days waiting for Bernal's departure; and that immediately upon leaving, he (the judge) had immediately come to San Marcos. He urged the military commander, in my presence, to press forward to *Metates* and follow up Bernal, but the commander did not do so. The soldiers remained at San Marcos, only six miles distant from their headquarters, a few days, and their commander returned to Culiacan. I left the soldiers at *San Marcos* and proceeded with my wife to Ventanas. There I resumed work for Messrs. Carroll & Co., in the Valenciana mine, where Mr. Baldwin was subsequently murdered, until I received an injury caused by an explosion of giant-powder while blasting, which laid me up for three months, so that I could not work. I returned to Ventanas and remained there until some time in July, 1887, a few days after Mr. Blanche was murdered.

I can personally vouch for the entire truthfulness of the statement contained in the affidavit of Mr. Gilman as to the condition of affairs at Ventanas from the time of the Bernal raid in May, 1886, down to the time of the killing of Blanche in July, 1887. I saw ample evidences of the envy, prejudice, and hatred which grew up against the Americans, to whom the native population applied the epithet of "Gringos," and even in my position I felt the insecurity which all the foreigners there felt, and realized fully the danger to which we were all in of being shot down at any moment.

I am an Englishman, and am a subject of Great Britain, but at Ventanas I was included among the "Gringos," and was fired at three times, and barely escaped with my life. At Ventanas all the English-speaking people were indiscriminately known as "Gringos," because, I think, the firm of Carroll & Co. was generally called "The American Company," and the impression seemed to prevail among the ignorant native population that all the English-speaking employés of the American Company were Americans. One member of the firm of Carroll & Co. (Mr. Wallender) is a *Swede*, and he is the only one of the company that has escaped injury or threatened injury from the native inhabitants. I know that Mr. John D. Almy, another member of the firm, an American, left there because his life had been threatened and he feared that the threat would be carried into execution if he remained. I know that Mr. Gilman, whose affidavit has been taken in this case (and to the entire truth of which I have testified herein), left Ventanas because his life had been threatened and he feared that he would be killed if he remained, and I know that he almost gave away his valuable mining property there in order that he should leave nothing behind him for the natives to destroy. I know that the lives of Mr. Smith and Mr. Blanche had both been threatened, and that they were both murdered in accordance with the threats that had been made against them. I know that Mr. Baldwin's life had been threatened before I left, and I afterwards learned that he was killed within a month after I left there.

I give it as my firm and honest belief that Mr. Smith, Mr. Blanche, and Mr. Baldwin were all murdered because they were *Americans*, or "Gringos," and that Mr. Almy and Mr. Gilman were run out of the country because of the deep and bitter race prejudice that existed there. The prejudice which grew up at Ventanas found expression in the envious remark that "the 'Gringos' came there poor and became rich off their mines," and they looked upon them as trespassers, who had no business to be there. I never, during all my fourteen years' residence in Mexico, saw in any other part of that country such intense and bitter race prejudice as I saw in Ventanas during the year prior to my leaving there.

At the time of the killing of Carlos Martinez and the wounding of Vicente Becerra by the uprising of the native inhabitants at *Durasno* (or *Durasnito*, as it is sometimes called) I was stopping with my wife at the village of *Piedra Gorda*, having left Ventanas a little more than a month before. The village of *Piedra Gorda* is but three hours from *Durasno*. I heard from a hundred sources all about the affair at Durasno.

The cause of the uprising of the native inhabitants of Durasno was not the killing of Mr. Baldwin, and was in no way connected with it. Mr. Baldwin was murdered at the Valenciana mine, 8 miles from Ventanas, and Durasno is nearly 40 miles distant from Ventanas. Durasno was therefore 48 miles distant from the Valenciana mine, where Mr. Baldwin was murdered, and was 18 miles distant from the Ciudad Ranch, where Mr. Smith and Mr. Blanche were murdered. The uprising of the native inhabitants at Durasno was caused by the robbing of a wealthy Spanish merchant there named *Don Ignacio Amescua*, whose son and a *juez conciliador* were taken as captives, to be held for ransom. It was this that caused the native inhabitants to arm themselves with any and every thing they could lay hold of and go after the outlaws. If the native inhabitants of any of the villages in the vicinity of Ventanas had aroused themselves to follow and punish the outlaws months before, the lives of all three Americans that were murdered at Ventanas could have been saved. The fact is, and it is a fact so notorious that no one will dispute it who was at Ventanas during those times, that the native inhabitants actually sympathized with the outlaws in their depredation against the "Gringos," and covertly applauded them.

All that I have herein stated concerning the cause of the uprising of the native inhabitants at Durasno is of course hearsay, but I had lived at Durasno. I had worked in the *Pino* mine, at that place, five months, and in the Los Amigos mine 3 months, and knew Don Ignacio Amescua well. I talked with numerous people with whom I was acquainted concerning the affair, who came from there. I was only 3 hours' ride from Durasno. I never, at any time, heard that the native inhabitants of Durasno had constituted themselves the avengers of Mr. Baldwin.

As I have stated, I have been in Mexico fourteen years. I have known Mr. W. W. Carroll many years. He is an old gentleman and very feeble. He is highly respected and esteemed for his integrity and kind-heartedness. Neither he nor any of the members of his firm, nor any of his employés, had rendered themselves obnoxious in any way to the native inhabitants. They paid high wages, and furnished good supplies to their men, and nobody could complain of their treatment. Their only offense consisted in the fact that they were "Gringos."

JOHN J. HOLMAN.

Subscribed and sworn to before me, this 3d day of November, A. D. 1887.
[SEAL.] LEE D. CRAIG,
*Notary Public.*

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[Inclosure 4 in No. 8.]

*Mr. Carroll to Mr. Bayard.*

DURANGO, MEXICO, *October* 17, 1887.

DEAR SIR: I take the liberty to place before you some of the many grievances that have happened to myself and associates, engaged in mining and ranching in the State of Durango, about 140 miles from the city of Durango, and some 100 miles from the city of Mazatlan. The firm consists of the following-named parties: Henry H. Ward, John D. Almy, A. O. Wallender, and W. W. Carroll.

On the 29th of May, 1886, a noted bandit by the name of Eraclio Bernal, and who has been committing many outrages in the States of Durango and Sinaloa for many years, made a raid on the town of Ventanas, where our store and main office are located, and captured the place without any resistance; in fact, there could not have been any real resistance made, as there was only a small police force, not to exceed ten men, and they poorly armed. And as it was a surprise, the first warning being a number of rifles

passed through the window or port where we deal out the goods, and fired. And strange to say, there was no one seriously injured, though one of the rifles was put so near the head of one of the clerks that he was powder-burned on one side of his face. The robbers had an easy victory, and took possession of the store, making Mr. A. O. Wallender, the only partner there at the time, a prisoner, and demanding that $12,000 should be paid them, or they would take him and the other associates with them and keep them until the amount demanded was paid. As the employés had been paid off that very evening, there was but a small sum left, and no possible means to raise such a sum as demanded in the place, and Mr. Wallender arranged with the chief bandit to wait until the next day, so he could send over for Mr. Ward, who was at another mining camp, some eight miles distant, and see how the affair could be arranged; and the next morning Mr. Ward sent Mr. Leon McLeod Baldwin, who was superintending some mines for us, to assist Mr. Wallender to arrange with the chief. And it was arranged with the chief that he should receive what money there was on hand, and that what bullion was out should be melted and put into bars and turned over to him, and that he should take arms, ammunition, and what goods he and his men might want, and that he would wait on us for the balance, to be paid in one and two months' time; and in our complying with our promises he pledged his word that him or none of his band should ever molest us again; and when the payments became due he sent after the amounts and we paid him. We had no other course, for we had no protection, and if we had not fulfilled our obligations to the bandit he would no doubt have returned and made us pay more dearly.

Some time before the raid of the chief bandit, Eraclio Bernal, in May, 1886, I stated to the governor the necessity of stationing a small force at Ventanas for the protection of the place. He promised that he would do so, but this promise was not fulfilled, and I am quite sure that had a small force been sent and stationed there, the bandit Bernal would not even have attempted to raid the place.

In a few days after my being brought up by the outlaws on the road (as set forth on pages 6 and 7 of the memorial and petition of Mrs. Baldwin), it was decided by the company that I should go to Durango and again state our grievances to the governor, and request him to give us more protection; or if he could not do so, I was then to proceed to the city of Mexico, and lay the case before the proper authorities there. On the 21st of July I called on the governor here, and stated the necessity of something being done at once to relieve us of the peril we were in at Ventanas; that as those outlaws were meeting with so much success, with no risk of being caught (as the authorities made but little or no effort to arrest them), they were getting more emboldened every day, and their success was inducing others to join them, and that we were in much danger of our lives. I requested that he should put a small force of ten or fifteen men at our new mill, situated some eight miles from Ventanas, as there was much danger that the outlaws would make a descent on that, as it would be an easy matter for them to do so and get away before any notice could be given to the authorities at Ventanas. I also requested that there should be a small force of twelve or fifteen men, with a capable man at their head, with full power given to hunt and arrest the outlaws. The governor promised that a force should be sent in eight days to guard the new mill, and that there would soon be a force of fifty more soldiers stationed at Ventanas, and that there would soon be several small parties organized, which they term *juez de condado*, to scour the country in search of the outlaws; but the small force that was to have been sent in eight days did not reach there until about the 1st of September; *so they were about forty days in furnishing this small force of ten men, instead of eight days, as promised.* I think about the same time there were some twenty more soldiers sent to be stationed at Ventanas; but up to the present time I know of no small parties being organized to go in pursuit of the outlaws.

Now in the time that elapsed between the eight days promised that the force would be at Ventanas and the time they did arrive there was the robbery of Mr. Swartwout and the atrocious murder of Mr. Leon McLeod Baldwin, and it is entirely probable that *these serious affairs would not have occurred had the government acted promptly in the matter, and which they should have done as the urgency of the case demanded it.* My partners write me that there were several of these outlaws seen in those days within three miles of the town of Ventanas by a boy, and that they sent out men to see about it. They did not find the bandits, but saw their tracks, *but the authorities sent no one in pursuit of them.* The outlaws inquired of the boy if I had returned, and my partners advised me not to return at present, as they are quite satisfied that they will make every effort to catch me, and would no doubt demand a large sum of money for my release or might end my existence in the same manner they did Mr. Baldwin. As they have *threatened to put us all out of the way my partners write that they are afraid, and consider it dangerous to visit the nearest mine we have to the town, which is not to exceed three-fourths of a mile distant; and when business compels them to visit the new mill, some eight miles distant,*

*they have to take an escort with them.* We have to employ an escort to guard the coin we need to pay labor and to guard the bullion we send to this place, as all is very insecure. There are now two American *refugees* at Ventanas—Mr. O. Swartwout and Mr. Oliver Woods. *They both have good ranches, but are afraid at present to even visit them.* I might say *I am also a refugee, for I should be with my partners attending to a part of the necessary business of the company, but am in fear of being kidnapped again*, and my partners are fearful of the same, *and advise me to remain here in Durango until there is more security*, if that is ever to happen.

I have been a resident of the Republic of Mexico over twenty-six years, and I believe that this part of the country is now more insecure for life and property than any of the preceding years I have been here. There are numerous small bands, I am informed, all over the country, committing robberies, and if necessary to accomplish their object they do not hesitate to murder; and *the Americans seem to be the greatest sufferers in this respect and are shown less respect by the Mexicans than any other nationality.* It seems strange that such should be the case—being sister Republics—but, nevertheless, I am satisfied it is so. *It is rare to hear of an English, German, French, or Spanish citizen being molested.* There is some reason that they should have some hatred towards Americans, as we, in the war with them, acquired some of their territory; but my opinion is that this is not the main reason. The majority, and especially the poor and ignorant classes, believe that the United States wishes to acquire the whole Republic.

On the 16th of September, their day of independence, the orator of the day cautioned the people to "*beware of the Americans,*" that "*they were accumulating much land and mining property, and that they (the Americans) would soon try and put their foot on the Mexicans' necks.*" or language to that purport.

As I stated previously, I have been a resident of the Republic of Mexico twenty-six years. All my partners have been in the country for ten years or more, and I think in all and every instance we have complied with the laws of the Republic, paid all taxes and contributions required of us, and have been fined quite severely for some small omissions that were made in custom-house papers, and we think quite unjustly, but we paid them. We have now been operating in mining for over ten years at Ventanas, in this state, with limited success, though the production of silver was fair, but we invested all the profits in making improvements, developing our mines, making roads, etc., and now consider we have a valuable property, and expected now to reap a good harvest for our many years of toil and perseverance; but, under the existing circumstances, I am afraid we shall not realize our past favorable hopes, for it is impossible to work with success when all is so insecure, both for life and property. *We have already shut down several of our mines, as we can get no competent person to go and take charge of them;* nor do we feel justified to take the risk to go and investigate the workings of them, which would be necessary several times in a month. We are now only operating in two mines, and they are in close proximity to one another, and also in close proximity to our hacienda, and where are located quite a number of our workmen, which makes it somewhat more secure from those small bands of assassins that are still in the vicinity, but still it is a source of great annoyance and expense to us, this want of security, for we need many supplies, and it is quite difficult to procure freights. We use much fuel, lumber, and timber, and this is the most difficult to get freighted. The freighters are opposed to going there; and it is only by paying them high prices that we can get fuel, lumber, etc., brought in, and it is much more expensive than if reasonable security was given. And the worst of it is that when we take out bullion we do not know whether we will have the privilege of disbursing it or whether those outlaws will disburse it for us. This is working under much risk and great disadvantages, and without more security is given soon we will quite probably shut down all our works.

It is needless for me to refer to the character of Mr. Baldwin. It has already been published in the many newspapers in what high estimation he was held by all who had the pleasure of his acquaintance. I will only state that I always found him to be an agreeable and amiable companion, and *honorable to a fault.* My belief is, he would not wrong or insult any person intentionally. He was as dear to me as a brother, and I often sought his good advice. Mr. Blanche I had not so much acquaintance with as with Mr. Baldwin, but had employed him for several months and was much pleased with him, as he was very energetic and honorable in all his dealings.

As there is no American consul here at present, Mr. Germ Stahlknecht, the German consul, kindly offers to certify to his knowing me, and in his belief that I have given an impartial statement, according to my knowledge, information, and views of these affairs.

W. W. CARROLL.

DURANGO, MEXICO, *October* 17, 1887.

Certified to by Mr. Germ Stahlknecht, German consul.

[Inclosure 5 in No. 8.]

*Mr. Sutton to Mr. Rives.*

No. 428.] CONSULATE-GENERAL OF UNITED STATES OF AMERICA,
*Matamoros, November* 30, 1887.

SIR: The murder of Leon McLeod Baldwin at the Valenciana mine, near the town of Ventanas, in the State of Durango, in August last, has caused much comment.

While on my recent inspection I anticipated the wishes of the Department, as shown by a telegram received later, and made a thorough investigation of the history and causes of this sad affair. In Sonora, at Guaymas, and Nogales, and in the States of Chihuahua and Coahuila, I made diligent inquiries of those persons whose business enabled them to know the facts.

There are, I believe, no American mercantile houses established in the city of Durango, but three German houses—Stahlknecht & Co., Julio Hildebrands, successors, and Maximiliano Damm—do business with Ventanas, which is distant five days' travel by mule path.

The city of Durango is about 100 miles by stage west from the line of the Mexican Central Railway at Lerdo. It is an extremely mountainous, thinly settled country. In all this section bandits, under various leaders, have for years robbed, murdered, and levied contributions on all who had anything worth robbing.

Among the most noted of these is Eraclio Bernal, whose career is among the most remarkable of any of whom I have ever read. He, with his lieutenants and their followers dominate a large section of country in these almost inaccessible mountains. They have the sympathy and assistance of many of the poorer people and are able to know the amount and value of the bullion produced or money kept in nearly every mining district in that section. The chief, almost the only, value of the country thereabouts is the mines, some of which produce very high grade of ores, and by their richness tempt men to work them at the manifest risk of their lives.

With this preliminary I take up and discuss the petition of Janet M. Baldwin to the Hon. Thomas F. Bayard, Secretary of State, dated San Francisco, Cal., October 6, 1887, of which I assume you already have a copy.

To enable you to make ready reference I inclose you herewith another copy. Paragraphs 1 and 2 are correct. Paragraph 3 is probably as nearly correct as the facts can be stated. Paragraph 4, as to other murders committed, agrees with common report and is substantially correct.

The allegation (on page 5) that the Government of Mexico was appealed to is common report and undoubtedly true.

On page 6 (in this fourth paragraph) it is stated that the governor of Durango was personally appealed to to take some effective measures to protect American interests.

It is generally understood that this was done, but that the governor, instead of taking vigorous and sufficient steps, resorted to the city of Mexico ostensibly to secure more troops, and that these have not been sent or so employed as to defeat or drive out the bandits.

Paragraph 5 was publicly stated; has never been questioned, and is doubtless true.

Paragraph 6 states that which can be more fully shown by the legation in Mexico.

Paragraph 7 states that the assassination of Mr. Baldwin was the direct result of the gross neglect of the Mexican Government in not protecting him against Mexican hatred and prejudice existing in that locality against Americans.

On this point I do not find anything which goes to show any special antipathy toward Americans, as such, in that section. The guilty parties are bandits and stop but little to ask the nationality of their victims. They strike for plunder. Under certain circumstances they might have a spite against some Americans and do them harm while not molesting others. This, however, is, so far as I can learn, incidental. They are opposed to all foreigners especially, and to all Mexicans who attempt to preserve the peace generally.

I have no doubt that the appeals stated on page 9 were actually made and with the result stated.

On pages 9 and 10 it is stated that the authorities either feared to interfere or were leagued in sympathy with the murderers.

I do not doubt that they feared to interfere, and it may be easily true that some of the local authorities were friendly to them.

Paragraph 8 states that petitioner believes that no merely personal motive caused the commission of any of the crimes mentioned. This I believe true. They were robberies for the sake of the plunder they might thereby gain.

Paragraph 9 mentions numerous other outrages in that same section as to which I make comment further on in this report.

Paragraph 10 shows that after an outrage on a Mexican merchant the inhabitants pursued and killed several of these robbers, and the inference is plain that similar action might have been had in the other cases had the residents felt disposed. This is probably correct. There is great fear of incurring the enmity of the robbers and the inhabitants will see others robbed with impunity so long as they and their immediate friends are not seriously molested.

As stated in paragraph 9, there have been other crimes lately committed on Americans in that section.

While I was in El Paso the newspapers gave details of the murder of another Californian, E. J. Nickerson, in that section, and while in Chihuahua I was shown correspondence which went to show that another man, also from California, John L. Foster, had been lost for two months. Orders had been given to pay for the removal of the body, when found, to California.

Paragraph 11 is, of course, for the exclusive decision of the Department, and in concluding I will only add a few comments which seem to me to be needed.

The section of country treated of is very difficult to traverse, and the extermination of such outlaws is extremely difficult and hazardous. They are worse than our Apache Indians.

I do not, however, believe that the general government of Mexico, nor the State government of Durango, nor the local authorities have done their full duty.

Prompt, vigorous, and sustained effort to capture or drive out these gangs would have done much to better the state of affairs.

It certainly is not a safe place in which to mine, and unless the state of affairs can be promptly improved, miners had better abandon their property and leave the country.

If the Mexican Government can not reasonably protect life and property in that district, it should so publicly proclaim and relieve itself of all responsibility.

I am, etc.,

WARNER P. SUTTON.

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[Inclosure 6 in No. 8.]

TESTIMONY OF GEORGE F. BEVERIDGE.

Testimony of George F. Beveridge, sworn to this date, November 25th, 1887, before Thomas B. Connery, chargé d'affaires of the legation of the United States of America, in the City of Mexico, Republic of Mexico.

I, George F. Beveridge, an American citizen, being duly sworn, do upon my oath depose and say:

I have read the memorial and petition of Janet M. Baldwin to Hon. Thomas F. Bayard, Secretary of State of the United States, and am conversant with the facts therein set forth. I was in Ventanas prior to and at the time of the Bernal raid upon that town, which occurred on the 29th of May, 1886. I was employed by W. W. Carroll & Co. (or the American Company, as it is known) from November 27, 1885, up to October 1, 1887, and remained at Ventanas continually up to that time. I am conversant with all the facts as set forth in the memorial and petition of Janet M. Baldwin, and certify that said statement is strictly true, only it understates instead of overstates the facts. No one but the foreigners residing at Ventanas can have any conception of the intense prejudice and hatred of the Mexican inhabitants of Ventanas against foreigners, and particularly against Americans. As all the Mexican miners and others in the employ of W. W. Carroll & Co. were well treated and well paid for their services, the only reason to account for their animosity towards Americans was owing to the desire of the Mexicans to drive them away from their property.

I have also read the testimony of Edward L. N. Gilman and that of John J. Holman, taken to be read in this case, wherein the condition of affairs at Ventanas is fully described and set forth, and I am able to testify positively and upon my own knowledge that all the statements made by Mr. Gilman and Mr. Holman in their said affidavits are true and correct.

I was also, at the time of the Bernal raid, made a prisoner with all the rest of the foreigners, and was placed under guard and compelled to transfer the few arms we had and all the goods he (Bernal) required from the company's store to his followers, whom he designated to receive them.

I was well acquainted with Leon McLeod Baldwin, and can positively assert that he had no personal difficulties whatever with the Mexicans, and that he was brutally and cruelly assassinated by Mexican assassins in hiding. The only reason that can be assigned for the brutal assassination of Mr. Baldwin was simply owing to his being an American, and for the same reason were Mr. Smith and Mr. Blanche murdered—the two Americans referred to in the memorial of Janet M. Baldwin.

Although I was not an eye-witness to the assassination of Mr. Baldwin, I at that time, being superintendent of the San Cayetano mine, one of the mines belonging to W. W. Carroll & Co. (or the American Company, as it was at times called), as soon as it was possible for me to do so after the assassination of Mr. Baldwin I secured the full particulars of the assassination from the head miner, by name of Eustacio Mapulo, of the Valenciana mine, where Mr. Baldwin was assassinated just as he was dismounting from his mule; and the head miner asserted that he was an eye-witness of the unwarranted and unjustifiable firing upon and the wounding to death of Mr. Baldwin by the assassins, Carlos Martinez and Vicente Becerra, who were concealed at the time of the firing. And I positively assert that Eustacio Mapulo personally did make the same statement to me, as is stated in pages 2, 3, and 4 of the memorial and petition of Janet M. Baldwin, addressed to the Hon. Thomas F. Bayard, Secretary of State, and sworn to on the 6th day of October, A. D. 1887, before Holland Smith, a commissioner for the Court of Claims of the State of California, in the city and county of San Francisco, California.

I will also positively assert that the above-mentioned miner, Eustacio Mapulo, stated to me that he negotiated between the assassins and Mr. Baldwin, and one of the conditions demanded by the assassins was that Mr. Baldwin should deliver up his pistol, which Mr. Baldwin did previous to his coming out of the tunnel, and the before-mentioned miner informed me that he took the pistol and delivered it to the assassins, Carlos Martinez and Vicente Becerra. Mr. Baldwin, although wounded to death, considered it to be the only chance for his life. As had been promised, surrendered himself entirely unarmed to the above-mentioned assassins and proceeded out of the tunnel to negotiate with the assassins, as had been agreed upon; and the head miner did make the same statement to me, that is to say, the before-mentioned assassins did state to Eustacio Mapulo that they did not want any money from Mr. Baldwin, but it was their intention and that of their friends, the Mexicans, to make away with the entire Gringos (Americans) one by one in the same way; and to prove that robbery was not their object for committing the assassination, Mr. Baldwin's watch was found on his person after the murder had been committed.

Open threats were made by the Mexicans, prior to the murder of Mr. Smith, that they intended to kill all the Gringos (Americans) residing in and around Ventanas; and although the Federal as well as the State authorities of Mexico were repeatedly appealed to by the Americans for protection, no assistance was rendered, nor were these bad characters arrested and punished.

Referring to that portion of Mr. Holman's testimony relative to the citizens of Durasno killing five of the bad characters, I positively assert that his statement is true; that in no wise were these bad characters killed by the citizens of Durasno for the assassination of Mr. Baldwin, but only for the reason, as stated in Mr. Holman's statement, for interfering and holding as hostages two Mexican citizens of the village of Durasno. Had the Mexican citizens or the authorities of Ventanas desired to even so much as to *arrest* the assassins of Mr. Baldwin, they had ample time and opportunities to do so, for after the assassination of Mr. Baldwin these assassins remained for several days in close proximity to Ventanas, and even sent word to the authorities, who at that time had about thirty-five Federal soldiers in Ventanas, if they (the authorities) wanted them (the outlaws) to come and take them. No attempt was made to do so, which shows beyond doubt (as is well known) that *the authorities did not consider that the assassination of an American was sufficient cause for them to pursue, arrest, and bring these bad characters (their own countrymen) to punishment.*

I will also positively state that a few days prior to the assassination of Mr. Baldwin it came to our knowledge from reliable information received both by Mr. H. H. Ward, one of the partners of the American Company, and myself, that Esperidon Morales, one of the followers of Bernal, and who had assisted him in his raid on the 29th of May, 1886, against the foreigners at Ventanas, and who also took part in the murdering of Mr. Baldwin and the kidnapping of Mr. Carroll, was openly residing at San Cayetano, where is situated the Eureka mine owned by the American Company, and situated from Ventanas about five miles. Both Mr. Ward and myself sent word to the *jefe*, or sheriff, of Ventanas and informed him of this fact, and requested him to have this bad character, Esperidon Morales, arrested. The *jefe* sent about six soldiers over to San Cayetano with an order on the *jefe* (sheriff) there by the name of Nielo, who had himself only been released from prison for two months for a murder he (Nielo) had perpetrated, to arrest Esperidon Morales and send him to Ventanas. Instead of Nielo doing so, he caused the soldiers to arrest three innocent men (who on their arrival at Ventanas were set at liberty), and then he (Nielo) went privately to Esperidon Morales and informed him that he had an order for his arrest and advised him to leave, which he (Esperidon Morales), feeling perfectly secure from arrest, did not do until 10 o'clock the following morning, and only left then when the sheriff (Nielo) went to him the second time and advised him to change his quarters, otherwise the authorities might possibly send for

him again. Upon this advice, given by the sheriff (Nielo), Esperidon Morales changed his quarters, and in a few days afterwards this same Esperidon Morales, although he was not in the immediate company of Carlos Martinez and Vicente Becerra at the time they assassinated Mr. Baldwin, still he, with others, were in the immediate vicinity and only awaiting the return of the above-mentioned assassins, who had been dispatched to commit their bloody and atrocious deed. I will state here that Domingo Rojes, a Mexican citizen, and one of the few who desired to save the property and lives of the Americans, gave me this information as to the sheriff (Nielo) warning Esperidon Morales to change his quarters, and if called upon, Mr. Rojes informed me, that he would testify to the truthfulness of this information on oath.

I will also positively assert that in Mr. Ward and myself endeavoring to have the lawless character Esperidon Morales arrested, is only one of a dozen similar cases where no attention whatever was paid to our appeals for protection by the authorities, and if by chance one or two of these lawless characters were arrested, they were only confined for a day or two and then set at liberty, to renew again their threats and excite their countrymen against the Americans.

From other reliable information received from a Mexican boy who saw the assassins, it was well known to the Mexicans that these assassins were in concealment near the Valenciana mine, of which Mr. Baldwin was superintendent, and were there for the purpose of assassinating him; and I positively assert that had the slightest assistance been given by the authorities towards protecting the lives and property of the foreigners at Ventanas, the many outrages culminating in the murdering and assassination of Americans would never have occurred.

Even after the assassination of Mr. Baldwin and the killing of the five assassins by the Durasno people, the prejudice and hatred against the foreigners at Ventanas (which was openly spoken of, and many threats made against their lives) was so intense, all of us being warned that we would be made away with in the same manner as Mr. Baldwin was, that I considered it was no longer safe for me to remain there, so I resigned a lucrative position and made my way out to Durango. Finding no American consul at that place I proceeded to the City of Mexico, and laid the facts as herein stated before the American minister.

GEO. F. BEVERIDGE.

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[Inclosure 7 in No. 8.]

BRIEF OF H. N. CLEMENT.

[In the Department of State of the United States of America. In the matter of the claim of Janet M. Baldwin for indemnity against the Government of Mexico. Historic brief relative to the inducements offered to foreigners by the Mexican Government subsequent to the independence of 1822 to settle within the territory of the Republic.]

I.—UNDER THE DOMINION OF SPAIN.

The Government of Spain pursued a most illiberal policy relative to the settlement of foreigners within the territory occupied by her American colonies; jealously excluding them from all knowledge of the country, and preventing them as far as possible from holding commerce with the inhabitants thereof. A few references to the laws of the Indies will show that such was the policy pursued.

The following are translated extracts from these laws:

Law 7, Title 27, Book 9, Recopilacion de Indias, by Philip III, 1614:

"We order and command that in no part or in any part of our West Indian Islands, and *tierra firme* of the Northern and Southern Oceans, shall any character of trade be *permitted with foreigners*, although it should be in the way of ransom, or any commerce whatever *under a penalty of death*, and confiscation of the property of those who violate this, our law, of whatever state or condition they may be."

Law 9, same title and book, Philip III, 1602:

"In consideration of the evils resulting from foreigners going to the Indies, to reside in the ports and other places, it being found that our Catholic faith is not secure, and it being important to see that no errors may be sown among the Indians and other ignorant persons, we command the viceroys, *audiencias*, and governors, and charge the archbishops and bishops that they aid in cleansing the land of these people, and that they cause them to be expelled from the Indies."

(The operation of these laws was suspended by the Mexican decrees of October 7th, 1823.)

This jealous policy with respect to foreigners was continued by the Spanish Government down to the date of the Mexican independence, the governors of the provinces of

New Spain being from time to time admonished to "keep a vigilant eye upon the restless sons of the Northern Republic."

II.—UNDER THE REPUBLIC OF MEXICO.

In the early part of the present century the Hispano-American colonies, stimulated by the example of the Anglo-American colonies, commenced their efforts to free themselves from the stern bondage in which for three hundred years they had been held by the Spanish Government, and succeeded in establishing a free and independent government. In 1822 the independence of the Republic of Mexico was acknowledged by the Government of the United States, and to this day there may be found hung upon the walls in some of the hotels in the City of Mexico the portrait of our American statesman, Henry Clay, under which there is printed the *resolution* offered by him in the Congress of the United States for the recognition of the independence of the United States of Mexico.

The government of the Mexican Republic was modeled somewhat after that of this Republic, the prosperity of which presented to the intelligent Mexican statesman an example which he was ambitious to see imitated by his own country; hence, the jealous and selfish policy pursued by Spain towards her American colonies was at once abolished, and a more liberal policy substituted therefor.

Desirous that the natural resources of the country should be developed by enterprising industry, and that the young Republic might be looked upon with pride by her elder sister of the North, and not held in contempt by other nations of the earth, the Mexican Republic, *from the date of her independence down to the present time*, has enacted laws and published to the world decrees, *inviting foreigners to become inhabitants of Mexican soil, and offering extraordinary inducements for them to do so, giving them in the mean time every assurance of protection in person and property.*

This statement may be partially verified by reference to a work entitled "Hall's Mexican Laws," recently published by A. L. Bancroft & Co., of San Francisco, which purports to be, and is a translation and compilation of the laws of Mexico, especially those relating to the acquisition, ownership, and transmission of property by foreigners in that Republic. (See sections 493, 494, 521, 522, 671, 680, 681, 683, 707, and 713.)

But Mr. Hall's work aims to present simply the laws of Mexico *in force at the present time.* Its scope was not sufficiently broad to enable me to refer the Department with exactness to the original sources of information or to show the *historical* correctness of the statements above named. I have therefore, for the purpose of showing that there has been a continuous series of *invitations* extended to foreigners to go to Mexico, and *inducements* held out to them to go, and *promises* of protection made to them if they would go, taken the pains to secure translations, in their chronological order, *of original decrees, proclamations*, and *laws* bearing upon the subject under consideration, through Mr. R. C Hopkins, of this city, who has for over forty years been intimately acquainted with the political, legislative, and judicial history of Mexico, and who is otherwise eminently qualified for the work by his long connection with the United States surveyor-general's office in this city as *keeper of Spanish archives*, as well as by reason of his having visited Mexico over forty times, either as the accredited agent of this Government or as the representative of important private interests.

The official publication or repository of the laws of Mexico is called "Legislacion Mexicana, ó séa Coleccion Completa de las Leyes, Decretos y Circulares, que se han expedido desde la Consumacion de la Independencia."

(Mexican legislation, or rather a complete collection of the laws, decrees, and circulars which have been issued since the consummation of the independence.)

In this collection of laws, decrees, and circulars are found the following relative to foreigners:

On the 7th of October, 1823, the laws of the Indies relative to foreigners, title 27, book 9, already quoted, *were suspended.*

On the 18th of August, 1824, was passed the law of colonization.

Article 1 of this law declares that "the Mexican nation offers to the foreigners who may come to establish themselves in the territory of the Republic security in their persons and in their properties, provided they subject themselves to the laws of the country."

Decree of the 6th of September, 1833: "Foreigners to be protected in their persons and property."

The most important decrees found in the collection above cited relative to foreigners are those issued by General Lopez de Santa Afia, who was wont to style himself the "Napoleon of the West," and that of the citizen Don Benito Juarez, than whom a wiser or more unselfish patriot never filled the Presidential chair of Mexico, although his veins were not coursed by the blood of the hidalgos of Spain.

*Decree of March 11th, 1842.*

On the 11th of March, 1842, President *Santa Aña* issued a decree of which the following is a portion:

Antonio Lopez de Santa Aña, general of division, well deserving of the country, and Provisional President of the Mexican Republic, to all the inhabitants thereof, know ye, that after *mature reflection* and a most careful examination *relative to the advantages* that will result to the Republic *by permitting foreigners to acquire property therein*, having heard the opinion of the council of representatives, which has made the most scrupulous examination of the matter, the expression of various departmental juntas, as well as the opinions of many illustrious persons, and the pro and con of the press, in view of their various legal projects which have been presented, and being convinced that a frank policy and an interest well understood demand that no further delay be permitted in making such concessions as may tend to the prosperity and development of the Republic by the increase of population, by the extension and division of property, which necessarily increases the national wealth; taking also into consideration the fact that by these measures the security of the nation will be more and more assured since the foreigners, who are owners of property, being interested in the common prosperity, will be so many defenders of the national rights; considering also the encouragement which will be received by agriculture, commerce, and other industries, which are the fountains of public wealth; and lastly, *that the opinion generally manifested is in favor of this concession*, I have thought proper in the exercise of the authority conferred on me by the seventh of the bases, adopted in Tacubaya, and sworn to by the representatives of the department, to decree as follows:

ART. 1 *The foreigners* established and residing in the Republic can *acquire* and *possess* country and town property by purchase, adjudication, denouncement, or by any other title whatever established by law.

ART. 2. They can also acquire in ownership *mines of gold, silver, copper, quicksilver*, iron, and stone coal of which they *may have been the discoverers* in accordance with the laws and ordinances relative thereto.

ART. 3. No foreigner can acquire more than two country properties in the same department without permission from the Supreme Government.

ART. 7. Foreigners who may acquire country or town property or mines, and the foreigners who may be employed in the same as servants, operatives, or day laborers *shall not be obliged to render military service* unless it be of a police character, but they shall be subject to militia tax.

On the 30th of January, 1854, General Santa Aña declared the foregoing decree of the 14th of March, 1842, to be still in force:

*Decree of October, 1842.*

Foreigners who are members of companies, discoverers of mines, or denouncers of such as are abandoned, although they should absent themselves from the Republic, shall not thereby *lose their right to the same*, no matter what may be the motive and length of such absence.

*Decree of June 16th, 1856.*

The President declares that *vessels bringing immigrants* for colonies in the State of Vera Cruz *are not subject to pay tonnage duty.*

*Decree of May 10th, 1856.*

Decree of President Ygnacio Comonfort for the establishment of four colonies between Jalapa and Vera Cruz; lands to be granted and no taxes to be paid thereon for three years.

Foreigners who petition for land for cultivation shall be entitled by this act alone to be considered Mexican citizens.

*Decree of June 11th, 1857.*

Forced loans having been exacted from foreigners, thereby placing the Government in an unpleasant position with respect to neighboring friendly nations, *such loans can not be exacted.*

*Decree of November 15th, 1858.*

His excellency the President having received notice of the fact that some authorities and military chiefs, overstepping the limits of the powers with which they are invested, have committed acts of violence not only against Mexican citizens, but also against the

subjects of foreign nations who are residents of the Republic, which can not be justified even under the circumstances resulting from the civil war which unfortunately exist at the present time; and these acts of violence having caused complaints to be made to the supreme Government, and claims against the same by the representatives of nations the citizens of which have suffered such violence:

His excellency the President orders me to make it known by the present circular that, with respect to foreigners, he desires me to make effective the guarantees of protection which, by the law of nations and treaty stipulations, all foreigners are entitled to receive who observe such neutrality as the present condition of the country requires. The supreme Government will therefore not tolerate any act of violence against them, either by the superior military officers or subalterns, nor by any authority, but, on the contrary, any one committing such acts of violence will incur the displeasure of the Government and be subject to such punishment as the law may award should they deliberately and without just cause act arbitrarily with respect to peaceable and honorable foreigners, remembering that they are exempt from all military service and not subject to forced loans.

His excellency the President recommends that every possible measure be taken for the security and protection of the subjects of friendly nations in their lives and properties, since in this is interested the honor and good name of the Republic and the preservation of its harmonious relations with foreign powers.

*Decree of President Juarez, March 13th, 1861.*

The worthy citizen Juarez, constitutional President *ad interim* of the United States of Mexico, to the inhabitants thereof. Know ye: That in exercise of the ample authority with which I am invested I have thought proper to make the following decree:

ART. 1. Every *foreigner* who alone, or in company with other foreigners, may *purchase lands* for agricultural purposes or for the establishment of any rural industry, *for the period of five years* from the date of the deed of purchase *shall be exempt from all kind of taxation or contribution*, being only required to present a map of the land in his possession to the minister of internal improvements, without which he will not be entitled to the favor above mentioned.

ART. 2. Every *foreigner* or company of foreigners who may *purchase lands* for the purpose of forming a colony, they and their colonists *for the period of ten years*, counting from the date of the deed of purchase, *shall be exempt from all kinds of contributions or taxes, saving such municipal taxes as they themselves may impose;* but shall within one year present a map of the survey of the land they possess to the minister of internal improvements, under the penalty of losing the favor granted by this article.

ART. 3. The *foreigners* referred to in the foregoing articles *shall for five years more* be entitled to the privileges granted, provided that if on the expiration of the said term of five years they can *prove* that they *have on their land* or among their colonists *employed Mexicans* to the number at least *one-third* of all the laborers or colonists.

ART. 4. No *import* nor *internal duties shall* for two years be *charged* on goods which are introduced directly for the consumption of the colonists or for the cultivation of the lands. Goods that may be introduced for commercial circulation, the origin of which is purely European, will be liable to confiscation.

ART. 5. The colonies that may be established under the foregoing authority, being sustained principally by foreign capital, shall have entire liberty to dispose of the municipal funds which they themselves provide, and the authorities shall not interfere with the revenues that they may designate.

ART. 6. The lands cultivated, and the colonies thus formed, in all things pertaining to the fulfillment of the guaranties which are conceded by this law, and the guaranties given by the constitution of the Republic, shall for two years enjoy the rights of foreigners, according to the nation to which the owner of the rural establishment belongs, or the majority of the colony.

ART. 7. In all points which are not expressly determined by this law, the owners of the establishments and the colonists shall be entirely subject to the law of the country, the same also on the expiration of all and each one of the periods mentioned in the foregoing articles.

*Proclamation of Placide Vega, January 2d, 1862.*

Placide Vega, constitutional governor of the State of Sinaloa: To the inhabitants thereof. Know ye:

That the Congress of the same has decreed as follows:

No. 30. The people of the State of Sinaloa, represented in Congress, decree:

ART. 1. The vacant land and waters of Sinaloa are the property of the State, one-half

of which shall be dedicated to the encouragement of national and foreign immigration, and the other half to the public treasury.

ART. 2. Every immigrant who, by himself or in company, may come with capital to establish himself in Sinaloa shall obtain gratis an area of land sufficient for the establishment of a colony, without any cost whatever, save that of the survey of the land.

ART. 3. *Foreign immigrants shall be exempt from all military service for the period of five years*, and they shall besides be permitted to establish their own municipal government, provided they do not interfere with the laws of the State.

ART. 4. The Government will dictate the most effective and peremptory orders to the end *that the immigrant shall not be molested nor caused to suffer the embarrassment that might result from a strict application of the laws* on their journeys from the points at which they may enter the State to the place which they have selected as residences, and in their residences they shall be aided and protected by the local authorities whenever it may be necessary.

ART. 8. The inhabitant of the State who may produce the first hundred bales of cotton of twelve arrobas to the bale, one hundred arrobas of coffee or sugar, shall be paid a premium of three thousand dollars, to be paid preferably from the treasury of the State; the Government will cause this law to be most strictly fulfilled, and will direct that the surveys of vacant land be commenced in the district of Mazatlan.

(It is proper to observe that the law of the Mexican Congress of the 4th of August, 1824, granted to the States of the Republic the revenues derived from the sales of the vacant land embraced within the limits of the same, and under this law the State of Sinaloa claimed its vacant or public lands, hence the foregoing decree of Placide Vega, governor of the State, relative to the disposition of its public lands.)

The following translated extracts are from the "Recopilacion de las Leyes, Decretos y Proclamaciones de la Union, formada por la Redaccion del Diario Oficial;" being but another title of a continuation of the same character of work as that from which the foregoing was taken.

*Circular from office of the Secretary of Improvement, Colonization, Industry, and Commerce.*

The immigration of industrious and intelligent colonists has been and is generally considered in our country so fruitful in natural products of all kinds as to be a matter of the most urgent necessity. The good results thereof are no more doubtful in our country than in those which by these means have developed their resources and advanced in the road of progress.

This is a problem which has already been definitely solved; and the only matter now to be considered is the best method to be pursued in order to reach the ends desired.

Many laws have been passed and many measures adopted for the accomplishment of this purpose by the former governors of the Republic, but all, or almost all, have proved ineffectual on account of the practical difficulties of all kinds, caused principally by political troubles.

At present the Mexican Republic is in a favorable condition for renewed efforts in this direction. Peace is now established in the whole extent of its territory; the currents of immigration which heretofore have been directed to other countries have been arrested or decreased in their importance; surplus foreign capital does not find productive investment; and, lastly, the present Government is animated by an earnest desire in this matter, and "*is resolved to make all kinds of sacrifices in order to attract honorable and industrious foreigners to our favored soil, and to procure their establishment thereon.*"

In order to accomplish this end by the most practical means, this ministry suggests that as soon as possible all the important and most interesting data be collected to serve as a guide in dictating such measures as are required to be taken in forming the first centers or nucleus of colonization.

The object of the present circular is to complete the reports which exist in the archives of the secretary's office by obtaining such as can be furnished by the State authorities through the means that they may have within their reach. Your well-known intelligent patriotism, citizen governor, and the interest you take in the public welfare, render it unnecessary for me to urge your co-operation in a matter of such transcendent benefit to the country.

One of the most important questions to be considered by the Government is the fate of the colonists from the moment they land on our soil, whatever may be the system adopted for the establishment of the colonies. It is, above all things, important to avoid loss of time and unnecessary delay, and what is more important, to prevent physical and moral suffering among the newly-arrived immigrants by making them acquainted with what they will need at the different points which they may intend to settle.

Agriculture and other industries are the surest guaranties for the prosperity of a country; industrious agriculturists and artisans are therefore the immigrants which we should

most seek to attract. But that the current of immigration may be properly directed it is necessary to give the colonists, before they reach the country, or at furthest, at the moment of their arrival, such instructions as they may need relative to the selection of lands on which to establish themselves.

MEXICO, *August* 25, 1877.

The foregoing circular was issued by the ministry of improvements, industry, and commerce:

*Extracts from contract executed with Cornelio Ornelas for the survey and colonization of lands on the northern frontier.*

ART. 14. The colonists who may establish themselves on the said lands, as also the directors of the colony, shall enjoy, in accordance with the law cited, *for ten years*, counting from the date of the establishment of the first colonists, the following privileges: Exemption from military service, and from all kinds of contribution, except such as are of a municipal character; from all kinds of import and internal duties on provisions, farming implements, tools, machinery, building materials, personal property required for use, work and breeding animals, export duties on the fruits of harvest, and they shall receive premiums and *special protection* for the introduction of a new cultivation or industry.

ART. 15. The executive will devote, during the first ten years from the foundation of the colony, the sum of one thousand dollars annually, which will be expended in paying premiums to the colonist or colonists who may introduce any new cultivation or industry.

ART. 16. The colonists shall be considered as having the same rights and being subject to the same obligations which are conceded to and imposed on all Mexicans in accordance with the general and special laws of the country.

MEXICO, *May* 20, 1881.

*Extract from contract with Ramon Fernandez for the survey and colonization of vacant lands in the State of San Luis Potosi, in the Republic of Mexico.*

ART. 1. The citizen, Ramon Fernandez, is authorized to establish on his own account, or for the company which for that purpose he may organize, agricultural, mining, or manufacturing colonies in the State of San Luis Potosi, Republic of Mexico.

ART. 12. The colonists shall be considered as having the same rights and being under the same obligations as are conceded to and imposed upon all Mexican citizens by the general laws of the country and the special laws of the State of San Luis Potosi.

*Extracts from mining code of Mexico, adopted in* 1885.

ART. 1. The following are the subjects of this law:

*Clause* 1.—The mines and deposits of all inorganic substances, which, in veins, sheets, or in masses of any form, constitute deposits, the composition of which is distinct from the rocks or earth, such as gold, silver, copper, iron, manganese, lead, quicksilver, tin, antimony, zinc, sulphur, rock-salt, and other analogous substances, the utilizing of which requires mining labor.

ART. 5. Every person capable, under the law, of holding real estate in the Mexican Republic can acquire the mines, placers, reduction works, and waters comprehended in article 1.

ART. 6. Foreigners can acquire the ownership of mines under the instructions imposed by the laws, and possess and transfer them the same as Mexicans.

ART. 7. The ownership of mines acquired in accordance with this code can be transferred the same as any other property.

ART. 8. The right to mining property does not lapse except in such cases as are set forth in this code.

Aside from the general laws and decrees which, from time to time, have been issued by the Mexican Government for the encouragement of immigration to its territory, large concessions have been made to empressarios, both native and foreign, under the condition of colonizing the same as herein set forth.

From the foregoing citations it is shown that the Mexican Government by the enactment of laws and the issuance of decrees has repeatedly invited foreign immigration to the territory of that Republic under all the guaranties and assurances of protection in life and property that could be given; that such invitations and assurances commenced

soon after the achievement of the Mexican independence, and that they have been repeated and extended from time to time. It is historically and traditionally notorious that under such invitations and assurances of protection, many emigrants have gone from the United States to the Mexican Republic for the purpose of settling therein, and that many capitalists have gone there and invested their money in mining, agricultural, commercial, and other industrial pursuits and enterprises; and it is also historically and traditionally notorious, that while some of such emigrants and capitalists have found that protection of which they had been assured, and have met with success in their enterprises, many others have been robbed of their property, their lives have been placed in jeopardy, and many have been murdered.

Whether these misfortunes and wrongs have resulted from the indifference of the Mexican Government, or from its inability to control its ignorant and prejudiced population, is a matter of no consequence in this controversy. The historic facts are as above set forth.

Respectfully submitted.

HENRY N. CLEMENT,
*Attorney and Counselor for Janet M. Baldwin.*

SAN FRANCISCO, CAL., *February* 4, 1888.

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[Inclosure 8 in No. 8.]

*Mr. Clement to Mr. Bayard.*

528 CALIFORNIA STREET,
*San Francisco, Cal., March* 3, 1888.

SIR: I herewith inclose you my brief on behalf of the petitioner in the case of Janet M. Baldwin in her claim against the Republic of Mexico, in which I have marshaled the leading facts for the purpose of showing that the case is one which entitled the petitioner to invoke the aid of her Government under the principles of international law.

I have not the material here from which to glean precedents, and I have therefore not presumed (and I shall not presume unless I am instructed to do so) to instruct one so eminently and thoroughly conversant, as you have for so many years been known to be, as to the rules and principles of international law. I think you will recognize at once that I have fairly stated them by referring to the first and second pages of my brief.

If I have fairly and correctly stated them, then, indeed, may I submit my case upon the evidence to which I have called specific attention.

I respectfully submit the case to you upon the testimony on file, with the assurance that you will give it that earnest and patriotic attention which it deserves, for Leon Baldwin was slain because he was an American.

Your obedient servant,

NRY N. CLEMENT.

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[Inclosure 9 in No. 8.]

BRIEF ON BEHALF OF PETITIONER.

*In the matter of the claim for indemnity by Janet M. Baldwin against the Republic of Mexico.*

In advising the petitioner, Mrs. Janet M. Baldwin, that she had a just, valid, and meritorious claim for indemnity against the Republic of Mexico on the ground of its gross negligence in permitting the assassination of her husband, Leon McLeod Baldwin, by Mexican citizens, under the circumstances detailed in the testimony on file, I have never for one moment ceased to consider that there *ought* to be, and indeed *must* be, a *concurrence of two facts* or a *combination of two ingredients* to fix national responsibility for any crime committed by citizens of one country against citizens of another; and that it devolved upon *us* to *show* such concurrence of facts or combination of ingredients in order to entitle us to invoke the aid of our Government to make such demand on our behalf.

The memorial and petition of Mrs. Janet M. Baldwin is drawn upon the theory that the two facts alluded to *do* concur in this case, viz:

First. That the principal *motive* which led to the killing of Leon McLeod Baldwin was the *prejudice* and *hatred* which the native inhabitants who murdered him cherished against him because he was an American.

Second. That the constituted authorities of Mexico, though frequently notified of the outrages which had previously been committed upon the American residents at Ventanas and of the dangers which still threatened them from the native inhabitants and frequently urged to furnish them protection, nevertheless grossly neglected and failed to furnish them such protection or any adequate protection whatever.

## I.

Under the first proposition above stated the two following facts concur, to wit:

1. That Mr. Baldwin was not killed for robbery or plunder.
2. That he *was* killed because he was an American.

1. That Mr. Baldwin was not killed for robbery or plunder is conclusively shown from the following facts, to wit:

(*a*) He was first shot at from behind some rocks and was (as it is now believed) fatally wounded, but managed to retreat into the tunnel, where he was safe from their shots. A parley ensued between his would-be assassins and the head miner, in which Mr. Baldwin sent word to them that "if it was money they wanted" he would see "that they were paid any sum that they might demand." They refused the proposition, but demanded his surrender, and promised that if he would come out and surrender himself to them they would "treat" with him on a money basis "*and would do him no harm.*" Relying upon their promise he did surrender himself to them, gave up his pistol, was helped on his mule, which he was found to be too weak to guide, and the assassins ordered a boy at the mine to go with them and lead the mule. He was thus completely unarmed and in their power. They did not proceed to treat with him on a "money basis," but on the contrary, proceeded to shoot him through the head while he was their prisoner, for no other reason that we can now conjecture except that which they themselves gave when they first fired upon him at the mine, viz: "That they intended to make way with all the Gringo Company, one by one, in the same way." (See Beveridge's testimony, pp. 3, 4, and 5.)

(*b*) He was not killed in a struggle or personal conflict in which he was defending his life or his property against bandits, but he was shot down while a wounded and dying man by persons who had taken him prisoner and were carrying him away. If they were taking him away to hold him for ransom it is not reasonable to suppose that they would have killed him and left him in the road, for by so doing they at once destroyed the only hope they otherwise would have had of securing a ransom. (Beveridge's testimony, pp. 3 and 4.)

(*c*) He was not killed for plunder. His murderers did not rob him. His watch was found upon his person after his death. (See Beveridge's testimony, page 4.)

2. That the chief motive which led to the killing of Mr. Baldwin was because he was an American is shown by the following facts, to wit:

(*a*) The assassins boldly announced, while he was hiding from them in the tunnel, that they "intended to make way with the entire Gringo company, one by one, in the same manner." (See Beveridge's testimony, pp. 1, 2, and 3.)

(*b*) Neither of the two assassins who put him to death were known to him personally or ever had any personal difficulty with him. It was not a personal quarrel. The only man with whom Mr. Baldwin had ever had even a semblance of a personal difficulty (if discharging a disorderly workman from a mine could be called a personal difficulty) was Esporidon Morales, who was not present and who did not participate in his murder.

(*c*) Two Americans, superintendents of a rancho owned by the same company, had been murdered within two months previously, under circumstances so peculiar and so aggravated as to show conclusively that it was not robbery alone, but native prejudice and hatred, in part, which led to the killing. Murder is not a necessary accessory to robbery, and was not so regarded subsequently by the same outlaws when they pillaged some of their own countrymen. (See Gilman's testimony, page 17.)

(*d*) The firm of W. W. Carroll & Co. was uniformly known among the Mexican inhabitants in the vicinity of Ventanas as "The American (or Gringo) Company." The members of the company and all their foreign employés were indiscriminately called "Gringoes" by the lower classes among the natives, who were in the ascendancy, and indiscriminate threats were made by the disorderly native inhabitants against the entire "Gringo Company" and against all the foreign population of Ventanas. (See Holman's testimony, pp. 23 and 24; Gilman's testimony, p. 16.)

(*e*) On account of these threats Mr. John D. Almy, a member of the firm of W. W. Carroll & Co., had left Ventanas to save his life,

(*f*) On account of these threats Mr. Edward L. N. Gilman (a gentleman of high standing and marked intelligence, whose testimony has been taken in this case) had sacrificed his valuable property and left Ventanas to save his life. (See Holman's testimony, p. 23.)

(*g*) On account of these threats Mr. George F. Beveridge (a gentleman well known

San Francisco as a man of courage, integrity, and upright character, whose testimony has been taken in this case) resigned a lucrative position as superintendent of the mines at Ventanas, made his way to the City of Mexico, where he appeared before the American legation personally and made oath to the entire truth of the statements contained in the memorial and petition, and positively stated that he left Ventanas to save his life, which had been threatened by the native inhabitants. (Beveridge's testimony, p. 8.)

(*h*) Mr. W. W. Carroll, the senior member of the firm of W. W. Carroll & Co. (otherwise known as "The American Company," the owner of the Ventanas mines), who has spent 26 years of his life-time in Mexico, and is justly looked up to and respected as a man of the highest standing and integrity, has given his testimony under oath before the German consul at Durango, to be read in this case, that he dare not go to Ventanas, where his property is situated, for fear of losing his life, and is to-day, and has been for months past, in banishment from his property, a refugee at Durango. (See Mr. Carroll's testimony, pp. 13 and 14.)

(*i*) Two Americans, named, respectively, Swartwout and Oliver, who owned ranchos in the vicinity of Ventanas, and have their homes there, dare not go to them because their lives have been threatened. They are refugees from their homes. (See Carroll's testimony, p. 13.)

(*j*) Mr. Smith's life was threatened, and he was killed in pursuance of the threats. (Gilman's testimony, pp. 12 and 13; Beveridge's testimony, p. 4; Holman's testimony, p. 24.)

(*k*) Mr. Blanche's life was threatened, and he was killed in pursuance of the threats. (See Holman's testimony, p. 24.)

(*l*) Mr. Baldwin's life was threatened, and he was killed in pursuance of the threats. (See Holman's testimony, p. 24.)

(*m*) A malignant spirit of envy and hatred of the Americans sprang up among the lower classes at Ventanas after the Bernal raid of 1886, which found expression in the opprobrious epithet "Gringo," which was applied to all the Americans without discrimination, and without other personal grudge or motive. (See Holman's testimony, pp. 22, 23, and 24; Beveridge's testimony, p. 4.)

(*n*) It was openly avowed, declared, and threatened that the Gringoes must quit the country, and that unless they did so they would all be killed. (See Gilman's testimony, pp. 13, 14, and 15.)

(*o*) There was no personal grudge or ill feeling against the individual Americans, or charge of unfair dealing against the "American Company." It was purely a political or race prejudice, and did not exist against any class of the native inhabitants, but was aimed and cherished exclusively against the Americans. (See Gilman's testimony, p. 15; Holman's testimony, p. 24.)

(*p*) On the 16th day of September, the Mexican independence day, the orator of the occasion cautioned the people to "beware of the Americans," that "they were accumulating much land and mining property, and that they (the Americans) would soon try to put their foot on the Mexicans' necks." (See Carroll's testimony, p. 14.)

(*q*) Both Mr. Gilman and Mr. Beveridge, one in San Francisco and the other in the City of Mexico, in their testimony, under oath, make the remarkable statement that Mrs. Baldwin's petition and memorial "understates instead of overstates the facts," and add that, from reading it, "no adequate conception can be had of the intense prejudice and hatred of the Mexican inhabitants of Ventanas against foreigners, and especially against Americans, nor of the unsafety and insecurity of life and property which exists there." (See testimony of Gilman, pp. 1 and 2; testimony of Beveridge, pp. 1 and 2.)

II.

That the constituted authorities of Mexico were guilty of gross and criminal neglect in failing to protect the Americans at Ventanas, is conclusively shown by the following facts, viz:

(*a*) The Mexican Government was fully notified of the state of affairs at Ventanas at least eight months before Mr. Baldwin was murdered, by an urgent written request transmitted through the office of the American legation in Mexico, asking for troops to be sent to Ventanas to protect the American residents there.

(The correspondence which followed this written request was conducted through Mr. J. L. Morgan, former chargé d'affaires under General Jackson. This correspondence is on file in the office of the American legation in the City of Mexico, and I respectfully ask your attention to it; and if the same has not been transmitted to the State Department at Washington, I respectfully ask that it be called for and used as a part of the testimony in this case.)

(*b*) Frequent applications were made to the district authorities at San Dimas, the district in which Ventanas is situated, to the governor of the state of Durango, as well as

the Federal Government, at the City of Mexico, for troops to be sent to Ventanas to protect the Americans there, who were known to be in danger; but little attention was paid to these repeated and urgent requests, and no effectual measures were adopted to render protection. (See Carroll's testimony, pp. 11 and 12; Beveridge's testimony, pp. 4 and 5.)

(c) The governor of Durango promised fifty soldiers in eight days, and actually sent but ten men after the lapse of forty days. Mr. Baldwin was murdered after these soldiers were promised and before they arrived. (See Carroll's testimony, p. 12.)

(d) After killing Mr. Baldwin the assassins remained several days in the vicinity of Ventanas and sent word to the authorities there to "come and take" them, but no attempt was made to do so. (See Beveridge's testimony, p. 5.)

(e) The *local authorities* were in actual *connivance* with the outlaws, and actually assisted Esporidon Morales, one of the most desperate criminals among them, to escape, when they could have arrested him; but instead of which they notified him to go away and avoid being arrested. (See Beveridge's testimony, pp. 5, 6, and 7.)

(f) It was known by the authorities at Ventanas that the assassins were in concealment near the Valenciana mine for the purpose of assassinating Mr. Baldwin, and yet no force was sent after him, and no effort was made to catch them. (See Beveridge's testimony, p. 7.)

(g) So weak and inadequate were the measures finally adopted for quelling the disorders at Ventanas that it was openly charged throughout the State of Durango that some of the State officials were in sympathy with Eraclio Bernal, and were covertly working in his interest. (See Gilman's testimony, p. 17.)

(h) After the murders of their victims the assassins freely mingled with the local officials, enjoyed perfect immunity from arrest, and openly boasted in the case of Mr. Blanche that they had "killed the foreigner at the ranch." (See petition and memorial, p. 5, certified to be true by all the witnesses.)

(i) It was not the formidable Eraclio Bernal and his band that killed Smith, murdered Blanche, and assassinated Baldwin, but an insignificant squad of local desperadoes, who, emboldened by their immunity from danger of arrest and punishment for the crime committed by them upon Americans, branched out into a general work of lawlessness and plunder against the native inhabitants, and then, and not till then, did they meet with the summary punishment which they did meet with in their first attempt on the inhabitants of Durazno. (See testimony of Holman, pp. 24 and 25; see testimony of Beveridge, p. 5.)

(j) The inhabitants of Durazno did in less than three days what the entire military force at the disposal of the Republic of Mexico had failed to do in eight months.

I have thus pointed out a few of the specific facts upon which I rely to establish the proposition that Mr. Baldwin's murder was not the mere ordinary case of a man who was killed by bandits for plunder. but that he was the victim of the traditional prejudice against our countrymen which even yet exists in some parts of Mexico, among certain classes of society and under certain conditions.

It can not be denied that these circumstances and others which appear at every page of the testimony constitute a very grave indictment against Mexico, and one which, if this Government has any respect for the lives of its citizens, should be followed up by a prompt and earnest demand for such reparation as that Government can now make to the widow and orphan of the man who was killed, seemingly for no other reason or motive than the race prejudice and traditional hatred entertained by his Mexican murderers against him because he was an American.

It does not seem to me that this Government can afford to ignore this most high-handed outrage committed upon one of its own citizens by Mexican outlaws, who, at the time of the killing, recklessly declared their intention to make way with "the entire Gringo company, one by one, in the same way;" nor does it seem to me that the Republic of Mexico can be allowed to plead its own inefficiency and powerlessness to cope with the outlaws, in the face and eyes of the fact that these same outlaws were so easily and so quickly disposed of by aroused and outraged citizens of Durazno when the life of one of their own race and countrymen was in jeopardy.

It would be very difficult to make the people of the United States to believe that the Republic of Mexico, with the military force at its disposal, could not do in eight months what the people of Durazno did in less than three days; and it will be still more difficult to make the people of this country understand why the ten thousand dollars reward which secured the head of Bernal was so tardily offered when it is known that he and his band have been committing the same species of depredations for nearly ten years past.

THE LAW OF THE CASE.

I have not presumed to present to the State Department an argument upon the principles of international law applicable to this case, nor to cite to the Department precedents established by our own Government in similar cases.

If this Government has ever, at any time, denied its responsibility in a case presenting such features as this, then indeed am I disappointed in the honor and integrity of my country.

I think I am fully justified in saying that if there is one subject about which the people of the United States are unanimous in opinion, it is that this Republic must more jealously watch and protect the lives of its own citizens wherever they may be on the face of the earth.

Respectfully submitted.

HENRY N. CLEMENT,
*Attorney and Counsellor for Petitioner.*

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## No. 775.

### *Mr. Bayard to Mr. Bragg.*

No. 15.] DEPARTMENT OF STATE,
*Washington, March* 22, 1888.

SIR: It is with great regret that I find myself called upon to invite the attention of the Mexican Government to recent occurrences at Eagle Pass, in the State of Texas, of which you have doubtless been already apprised through the public prints, and which, it appears, arose from the efforts of a party of Mexican soldiers to kidnap a deserter from the Mexican army.

The affairs took place on Saturday, March 3, and on Sunday, March 4, telegraphic instructions were sent to Mr. Allen, the consul of the United States at Piedras Negras, to obtain full legal evidence of the facts to the end that a calm and exact account might enable this Government to determine upon the proper course to be pursued. Mr. Allen has, in accordance with these instructions, forwarded to this Department the depositions of several eye-witnesses, and a perusal of their depositions leaves little room for doubt as to what actually took place.

It appears that one Atanacio Luis, a private soldier of the Mexican army, stationed at Piedras Negras, deserted on February 26, 1888, and crossed the Rio Grande into the United States by wading or swimming. Two days afterwards, on Wednesday, February 28, he secured employment with Frank Fox, a contractor and builder at Eagle Pass; and at the time of the occurrence in question was at work for Mr. Fox in Eagle Pass, at a new freight depot in process of erection. This building is situated about half a mile from the river, the middle of which forms the boundary line between the United States and Mexico.

On Saturday morning, March 3, Captain Francisco Muñoz, an officer of the Mexican army, and, as it would seem, the captain of the company of which Luis, the deserter, was a member, crossed the Rio Grande alone and requested Mr. Dillon, the United States inspector of customs stationed at the ferry at Eagle Pass, to permit four of his soldiers to cross over from Mexico for the purpose of looking at some horses they wanted to buy, promising that they would return within an hour. Mr. Dillon granted the request. Captain Muñoz then waved his hand to four men who were waiting on the Mexican side and they crossed over at once in the ferry-boat.

These men were Miguel Cabrera, a lieutenant of the Mexican army; Policarpo Garcia, a sergeant; José Maria Castellanos, a corporal; and Pedro Ochoa, a private soldier, all of whom belonged to the same company as Luis, the deserter. Lieutenant Cabrera was riding his own horse and the other three were riding troop horses belonging to the Mex-

ican army. All four were in citizen's clothes and apparently unarmed, but, as was later proved, were carrying concealed weapons.

After a conversation between Captain Muñoz and Lieutenant Cabrera at the river bank, which was not overheard by any of the deponents, the lieutenant and his three men rode off in the direction of the custom-house, saying they were going to get the collector's permission for a more extended visit on the next day; and Captain Muñoz seems to have returned by the ferry-boat to the Mexican side of the river.

Instead of going to the custom-house, Lieutenant Cabrera and his men rode directly to the new freight depot, where, as already stated, Luis was at work. They at once rode up to him and ordered him to mount behind Ochoa (the private soldier), and on his refusing, Sergeant Garcia and Corporal Castellanos dismounted and attempted to beat Luis into compliance, and to bind him with a rope, saying they were determined to carry him to the other side of the Rio Grande. One Fernando Dolch, who appears to have witnessed this scene, rode off and informed Deputy Sheriff Shadrick White, who at once mounted Dolch's horse and hastened to the depot. There he found the lieutenant and Pedro Ochoa on horseback holding the horses of the other two men, who were in the act of binding Luis with ropes. Luis was resisting and cried out to Mr. White for aid. Mr. White recognizing Lieutenant Cabrera, whom he had seen in Piedras Negras, asked what they were doing. The lieutenant, with an oath, asked what he wanted, and Mr. White replied that he was an officer, that they were violating the law, and he must arrest them, and if they wanted the man they must take him according to law. The lieutenant exclaimed in Spanish, "Damn your laws; we are going to take this man or all of us will die in the attempt;" and he and Ochoa pointed their pistols at White, who was wholly unarmed. Mr. White thereupon turned his horse and rode quickly to the jail, about a quarter of a mile distant, to get a gun, and returned with it to the depot.

In the mean time the lieutenant had told his men to mount and leave Luis, which they did and rode away towards the river. Mr. White, finding they had departed, pursued them and intercepted the party at the intersection of Main and Ryan streets, Eagle Pass, a point almost on the bank of the river. Mr. White called out to them to stop, and in reply the lieutenant fired his pistol at Mr. White, who returned the fire.

The other three men thereupon fired their pistols at Mr. White at very close range, wounding him in the right hand and left arm. The horse of Sergeant Garcia was killed in the affray, and, as White deposes, two of the Mexican soldiers were wounded. The three Mexicans who were still mounted plunged their horses into the river and escaped to the Mexican shore. Sergeant Garcia, however, attempting to wade across, sank in the river just before reaching the middle of the stream and was drowned.

Mr. Allen, the consul at Piedras Negras, informs the Department that the sergeant's body has since been recovered from the river, and that he was found to have been shot in the leg and head.

An examination of the depositions, copies of which are inclosed, leaves no doubt in my mind that the relation I have thus briefly given presents an accurate statement of events. The several witnesses testify only to facts which came under their individual observation, and all the depositions were taken immediately after the occurrences to which they relate.

It appears evident that the officers of the Mexican army who were concerned in this affair deliberately planned the kidnapping of the man

Luis. Under a false pretense of crossing the river to purchase horses, they contrived to bring an armed force within the territory of the United States for the purpose of arresting a deserter from the army, which purpose must have been known to them to be absolutely illegal. The boundary they crossed was not an imaginary line, but a considerable and well-known river. They were met at the frontier by an officer of the customs service, and they entrapped him into granting a friendly permission to visit the United States upon a peaceful and harmless errand. While in the act of attempting to secure their prisoner, they were met by a duly constituted officer of the law, who warned them of the illegality of their actions, but they replied with oaths and threatened him with violence. On his attempting to arrest them they resisted arrest with fire-arms and wounded him severely. For this violation of territory, so coolly planned and so boldly executed, no excuse seems possible; and I am confident that the Mexican Government, with the candor which should always characterize a great and powerful nation, and which it has already exhibited in the unfortunate affairs at Nogales, will not hesitate to make voluntary and ample reparation.

I am informed that the military authorities of Mexico have already taken active steps to investigate the acts of their subordinates and they will doubtless have forwarded a full report of their inquiry. You will therefore lose no time in calling upon the minister of foreign relations, and after laying before him the facts in the case as they appear from the evidence furnished to this Department, you will urge upon him the importance, in the interests of both nations, of affording to the United States such reparation as is justly due in a case so flagrant and so devoid of extenuating circumstances. In so doing you may properly recall the fact that the Mexican Government were prepared to punish with what seemed to me undue severity the recent violation of our territory at Nogales, in which case the offending officers crossed an imaginary line at night, and under circumstances which led me to believe that there was an entire absence of unlawful intent; and that in the present instance the offense is far more serious, as an unmistakable boundary was crossed in broad day, under circumstances plainly indicative of lawless deliberation and premeditation.

The Government of the United States is therefore justly entitled to a prompt disavowal by the Mexican Government of the acts of its subordinates, and a suitable indemnity should be awarded the deputy sheriff who was wounded in the discharge of his duty. You may read this instruction to the minister, and, if desired by him, you may leave a copy with him, together with copies of the accompanying depositions.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 15.]

*Deposition of Juan Gonzalez.*

UNITED STATES CONSULATE,
*Piedras Negras, Mexico.*

Personally appeared before me Juan Gonzalez, who, being sworn, deposes as follows:

I am employed as collector by the ferry company plying between Piedras Negras, Mexico, and Eagle Pass, Texas, and stationed on the American side of the Rio Grande. While engaged in the discharge of my duties on the morning of the third (3rd) of March, 1888, I saw Captain Francisco Muñoz, of Piedras Negras, in conversation with

the inspector of customs for the United States at the guard-house on the American side of the river, and subsequently saw Lieutenant Cabrera and three men join the said captain.

Given under my hand this 6th day of March, 1888.

his
JUAN × GONZALEZ.
mark.

Witness:
HENRY WHITTLE.

Sworn to and subscribed to before me this sixth day of March.
[SEAL.] W. G. ALLEN,
*U. S. Consul.*

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[Inclosure 2 in No. 15.]

*Deposition of F. H. Dillon.*

UNITED STATES CONSULATE,
*Piedras Negras, Mexico.*

Personally appeared before me Frank H. Dillon, who, being sworn, deposes as follows:

I am a citizen of the United States, residing at Eagle Pass, Texas, and employed as inspector of United States customs at the port of Eagle Pass, district of Saluria. On Saturday, March 3rd, 1888, I was stationed at the ferry landing, my duty being to examine all merchandise, baggage, animals, and vehicles coming over the ferry from Mexico. About eleven o'clock on that morning, Captain Francisco Muñoz, who is personally known to me, came to me and asked my permission for four of his soldiers to cross over from Mexico on their horses, for the purpose of looking at some horses they wanted to buy, and to return inside of an hour. I gave him permission. He then waved his hand to four men who were waiting on the other side, and they crossed over in the ferry-boat. Victor Flores was the ferryman who brought them over, and Juan L. Mecke crossed over in the ferry-boat with them. Captain Muñoz in the mean time had walked down to meet them. As two of them were passing the guard-house, one of them, speaking in Mexican, accosted Juan Gonzalez, who was standing near, and asked him the way to Las Moras, a town in the interior of Texas, about thirty-five miles distant. Upon hearing this, I immediately told the two men to halt there, and called to the other two, who were passing some distance off to come up to the guard-house. I recognized one of these last two to come up as Lieutenant Miguel Cabrera, who is to me well known, and to the best of my belief is the lieutenant of the company of Mexican cavalry now stationed at Piedras Negras, Mexico.

Speaking to him, I said, "Lieutenant, if you or any of your men are going to Las Moras, you must get a permit from the collector of customs. Captain Muñoz only obtained permission from me for you to come into Eagle Pass and return inside of an hour."

Lieutenant Cabrera then went to the skiff-landing, a few yards off, where Captain Muñoz was still standing, saying he would see the captain about it. I told the lieutenant, as he was leaving, that the captain himself had better go to the custom-house and get the permit, as he was known there. The lieutenant and Captain Muñoz stood talking some time, and Lieutenant Cabrera returned and said to me that Captain Muñoz thought they had better go up to the custom-house and get their papers now and then start on their trip the next morning. He said if I would let them ride to the custom-house they would be back in a few minutes. They then started off as though going to the custom-house. Lieutenant Cabrera and the three men were all dressed in plain citizen's clothes, and had no arms in sight. The three men with the lieutenant are unknown to me of my own knowledge.

About half an hour later I heard two shots, followed by several more, and I saw Lieutenant Cabrera running his horse into the river at the ford about 300 yards above the guard-house, where I was standing. He was followed at some little distance by two of his men, also running their horses. As soon as Lieutenant Cabrera reached the Mexican bank of the river, or at least the edge of the water, he wheeled his horse and fired back with his pistol either three or four shots at the people on this bank.

FRANK H. DILLON.

Sworn and subscribed to before me this sixth day of March, 1888.
[SEAL.] W. G. ALLEN,
*United States Consul.*

[Inclosure 3 in No. 15.]

*Affidavit of Shadrick White.*

The STATE OF TEXAS, *Maverick County, ss:*

Before me, F. V. Blesse, a notary public in and for Maverick County, Texas, on this day personally appeared Shadrick White, who, being by me duly sworn, deposes and says that on March 3rd, 1888, he was a deputy sheriff of said Maverick County; that on said 3rd day of March, 1888, in the town of Eagle Pass, in the county and State aforesaid, affiant was informed by Fernando Dolch that some parties were out at the railroad depot trying to take a man across the river (Rio Grande); that they were men from over the river; said Fernando Dolch urged affiant to go out and stop them, as they were beating the man severely; that he (affiant) took the horse said Dolch was riding and rode out to the depot, a distance of about 400 yards; that when affiant reached the freight depot he saw four men, two of whom were tying another man with ropes; that the man whom they were tying or attempting to tie was resisting all he could, and as soon as he saw affiant called to him, saying in the Spanish language, in substance, "For God's sake don't let them take me to the other side" (meaning to the other side of the Rio Grande); that two of the men were sitting on their horses holding the horses of the two who were tying the man; that just before affiant reached them he (affiant) saw one of the men on horseback, and whom he recognized as an officer of the Mexican army in Piedras Negras, Mexico, strike the man they were tying, on the head, with a large pistol; that as affiant rode up he spoke to them and asked what they were doing; that the man on horseback, whom the affiant had recognized as an officer in the Mexican army, said to affiant in Spanish, in substance, "What in the hell do you want here?" that affiant answered that he was an officer and that they were violating the laws, and that he must arrest them; that if they wanted the man they must take him according to law; that the two men on horseback then covered affiant with their pistols, which they already had in their hands, and the one whom affiant had recognized as the officer said to affiant in the Spanish language, in substance, "Damn your laws; we are going to take this man or all of us will die in the attempt;" that affiant then turned his horse and rode quickly to the jail (a distance of about 300 yards) to get his gun; that affiant got his gun quickly and started back to where he had left the men, but he saw they had left, and parties motioned to affiant indicating to him that the parties had gone around by a back street in the direction of the Rio Grande River; that affiant then ran his horse quickly down Main street, about 800 yards toward the river, and intercepted three of the men at the intersection of Main and Ryan streets, which is almost on the bank of the Rio Grande; that the fourth man (the officer) had already passed this crossing and was about 40 yards ahead of affiant; that affiant called to him to stop, but that he fired at affiant, and affiant returned the fire; that just at this moment the other three men ran down Ryan street on affiant, with their pistols drawn, and at once opened fire on affiant, and he returned the fire, and several shots were exchanged at very close range, resulting in affiant's being shot through the right hand and in the left arm, and in the wounding of two of the men and the killing of one of their horses; that three of the men plunged their horses into the river and made their way to Mexico; that the man whose horse affiant had killed, affiant is informed and believes, attempted to swim the river, but was drowned from his having been wounded or otherwise; that affiant has since seen the man said parties were trying to kidnap, and said man tells affiant that he is a deserter from the Mexican army, and that his name is Atanacio Luis.

SHADRICK WHITE.

Sworn to and subscribed before me, at Eagle Pass, Texas, this 6th day of March, A. D. 1888.

[SEAL.]

F. V. BLESSE,
*Notary Public for Maverick County, Texas.*

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[Inclosure 4 in No. 15.]

*Affidavit of Atanacio Luis.*

The STATE OF TEXAS, *Maverick County:*

Before me, F. V. Blesse, a notary public in and for the county and State aforesaid, on this day personally appeared Atanacio Luis, who being by me duly sworn deposes and says that he is a native of Mexico; that he is about twenty-one years of age;

that on Sunday, February 26th, A. D. 1888, affiant was a private soldier of the Mexican army stationed at Piedras Negras, Mexico, and had been in such army for a period of about ten months prior to said date; that on said 26th day of February, A. D. 1888, affiant about noon of said day obtained permission from his lieutenant, Miguel Cabrera, to go to dinner; that affiant, instead of going to his dinner, at once deserted said army and came across the Rio Grande River to Eagle Pass, Texas; that affiant waded the river in an entirely nude condition, bringing nothing whatever with him; that on Tuesday, February 28, 1888, affiant secured employment with Frank Fox, a contractor and builder in Eagle Pass, Texas, and that on Saturday, the 3d day of March, 1888, affiant was at work for said Frank Fox in the town of Eagle Pass, Texas, at the new freight depot in process of erection; that others were also at work on said building; that at about eleven o'clock a. m., of said 3d day of March, 1888, and while affiant was so at work, Miguel Cabrera, a lieutenant of the Mexican army, Policarpo Garcia, a sergeant of the Mexican army, José Maria Castellanos, a corporal, and Pedro Ochoa, a soldier of the Mexican army, came to where affiant was at work and tried to forcibly take affiant back to Piedras Negras, Mexico, against his (affiant's) will; that they came to affiant on horseback, two on one side and two on the other, and at once told affiant to mount up behind said Pedro Ochoa, but affiant refused; that thereupon said Policarpo Garcia and José Maria Castellanos then got down from their horses and began to beat affiant with their pistols and to punch him with a knife; that affiant then crawled under the platform of the freight depot on which he was at work, but they crawled under and brought him out; that they then attempted to tie affiant with a rope, and told him they were bound to carry him to the other side of the Rio Grande; that affiant fought and resisted them with all his might until Shadrick White, a deputy sheriff, came and affiant called to him not to allow them to take him; that the said Miguel Cabrera cursed White and told him that he (Cabrera) did not respect him, and that they were going to take affiant or all die on the spot; that said Miguel Cabrera and Pedro Ochoa threw their pistols down on Shadrick White and he left; that José Maria Castellanos then asked the lieutenant whether they should put affiant up behind Ochoa or whether they should leave, and the lieutenant told them to mount their horses and leave, which they all did at once, going round a back street in the direction of the Rio Grande, and leaving me lying on the ground badly beaten and bruised and covered with blood; that affiant knows all of said men well and has known them and been in the same company with them in the Mexican army for about ten months next preceding the 26th day of February A. D. 1888; that affiant and Pedro Ochoa came together from San Luis Potosi, Mexico, with the army; that all of said parties were dressed in citizen's clothes on said 3rd day of March, A. D. 1888, and that they all rode horses belonging to the army and the Mexican Government except the said Miguel Cabrera, lieutenant, who rode his own individual horse, which he always rides; that the clothes that affiant had on the day he deserted the army were the only articles he brought away from the barracks; that he left these on the Mexican bank of the river and he has since learned that the Mexican soldiers took them back to the barracks; that affiant had committed no offence in Mexico before leaving and that the said Lieutenant Miguel Cabrera and his said party could not have possibly wanted affiant, except for the offense of desertion.

ATANACIO (his x mark) LUIS.

Witness:
DAN. W. NICHOLSON.

Sworn and subscribed to by making his mark in the presence of D. W. Nicholson in the town of Eagle Pass, Texas, this 6th day of March, 1888.

[SEAL.]

F. V. BLESSE,
*Notary Public for Maverick Co., Texas.*

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[Inclosure 5 in No. 15.]

*Affidavit of Messrs. Sulzbacher, Henderson, and Ladner.*

The STATE OF TEXAS, *Maverick County:*

On this day personally appeared before me, F. V. Blesse, a notary public in and for the county and State aforesaid, Nat. Sulzbacher, Frank W. Henderson, and A. J. Ladner, to me well known, who, being by me duly sworn upon their oaths, depose and say: We were standing on the bank of the Rio Grande River, at Eagle Pass, Texas, on the 3d day of March, A. D. 1888, when a Mexican soldier was shot in the river by officers from this side, and we each saw the man when he sank; and we each say that said man was on the American side of the middle of the river when he sank; that he had just reached the current and was almost to the middle; that only his

head was exposed at the time, and we think he was in an upright position, tiptoeing on the bottom.

NAT. SULZBACHER.
FRANK W. HENDERSON.
A. J. LADNER.

Sworn and subscribed to before me this 14th day of March, 1888, A. D.
[SEAL.] F. V. BLESSE,
*Notary Public for Maverick Co., Texas.*

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[Inclosure 6 in No. 15.]

*Affidavit of Dr. R. N. Lane.*

The STATE OF TEXAS, *Maverick County:*

Before me, F. W. Blesse, a notary public in and for Maverick County, Texas, on this day personally appeared Dr. R. N. Lane, to me well known, who being by me duly sworn deposes and says: my name is R. N. Lane; I live in Eagle Pass, Texas; I am a practising physician and surgeon. On Saturday, March 3, 1888, Dan Musgrove, a deputy sheriff of Maverick County, brought to my office, at about noon on said day, a Mexican, who stated to me that his name was Atanacio Luis, and he and Musgrove both told me that he was the man who had just been beaten up by Mexican soldiers from the Piedras Negras, Mexico. I have since seen him several times and he has been identified as the man who was beaten by Mexican soldiers who made an attempt to kidnap him and take him to Mexico. Said Atanacio Luis was suffering on said 3rd day of March, 1888, from four deep contused wounds on his head, which were freshly inflicted and still bleeding. Two of said wounds were at least two inches long, and all penetrating to the skull bone; all of the wounds required to be sutured; he also showed me a wound on his arm which also appeared to be a contused wound, but not very serious.

The wounds on the head had the appearance of having been inflicted with a heavy blunt instrument, and said Atanacio Luis told me at the time that they had been inflicted by said Mexican soldiers striking him on the head with large pistols that morning.

R. N. LANE, M. D.

Sworn and subscribed to before me this 14th day of March, 1888.
[SEAL.] F. V. BLESSE,
*Notary Public for Maverick County, Texas.*

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## No. 776.

*Mr. Bragg to Mr. Bayard.*

No. 10.] LEGATION OF THE UNITED STATES,
*Mexico, March* 23, 1888. (Received April 2.)

Sir: Yesterday I received a letter from one B. C. Work, dated on the 1st instant, at San Carlos, Tamaulipas, copy of which is herewith inclosed, and in which Mr. Work described his position as one of peril, and besought my interposition in his behalf.

I represented the case to Mr. Mariscal, and have the honor to inclose copy of my note to him for your consideration and approval.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure 1 in No. 10.]

*Mr. Work to Mr. Bragg.*

SAN CARLOS, TAMAULIPAS,
*March* 1, 1888.

DEAR SIR: I have been here for the past six years with my family, my wife and daughter, mining in the San José mines, 15 miles northwest of this place, our com-

pany known and on record as the Linares Land and Mining Company. I am secretary and general manager of the same, A. W. Gifford, president, office 712 and 713 Bank of Commerce Building, Saint Louis, Missouri.

I have the honor to submit to you that for the past two years we—that is, my family and myself—have had to submit to many persecutions and attempts to murder us. I have appealed to the local authority here, and they treat me with indifference. We have many thousands invested in these mines, and it would be a great loss to have to abandon all our property here. I am now a prisoner in jail here for killing a robber who attacked me in open day, a few miles from my camp on my way to camp from the city of Linares with funds. There were three in the gang, the other two got away, and have presented themselves to the judge here claiming that I murdered the man without cause.

Last night, after I got to camp with my family, who are Americans, I sent for the judge and surrendered myself to him and demanded of him to protect me, as a mob had surrounded my house with arms shouting to burn us out, at the same time setting the brush fence on fire. Through the aid of a couple of gentleman from this place and Don Antonio Medenel, I prevented the mob from murdering and roasting us in our camp. I am here in jail very unjustly, and the object is to extort money from me. My partners are in the States, and no other Americans in the district. I am forced away from my friends, and I dread the result. My wife is the daughter of the Rev. A. Fitzgerald, of Dalton, Georgia (Baptist).

The local authorities of this place are to blame, and denounce all Americans and American interests here. I hope that you will lay this before the proper authority and ask for the legal protection of our lives and property. I have been the agent of Rubio, now secretary of state, in 1862 to 1865 in Texas, buying cotton for the company of Rubio, Madoro, Gonzalez & Co. I also have represented the house of W. Cunningham & Sons, of 45 and 47 South Front street, Philadelphia, at Tampico, in this State, in 1870 to 1875.

I am a native of Tennessee, from Roane County, Kinston, the county site. I have been connected with Mexican business since 1861, have always conformed to the laws, have never made complaints to my Government before until now, and the presidente de ayuntamiento, Don R. Valdze, two years ago, in open court, threatened my blood for presenting a protest regarding business; he is now aiding and abetting the acts. As he is now again presidente of the ayuntamiente, I hope you will take immediate notice of this. They intend here to send me to Victoria, the capital of the State; when I get there, if they do not murder me before reaching that place, I will communicate with you by wire.

Hoping you will excuse my hasty communication and my bad English, I submit, etc.,

B. C. WORK.

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[Inclosure 2 in No. 10.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, March 22, 1888.*

SIR: I have the honor to bring to your excellency's notice the complaint of Mr. B. C. Work, an American citizen, now imprisoned at San Carlos, in the State of Tamaulipas, on the charge of murder.

Mr. Work declares that the man whom he killed was a robber, and that the act was done in self-defense, the said robber having attacked him in open day a few miles from his camp.

On February 29th last, Mr. Work on returning to his camp surrendered himself voluntarily to the judicial authorities, and claimed their protection from an excited mob, which set fire to a portion of his property and threatened the lives of himself and his family.

According to my information Mr. Work is a respectable man, engaged in mining operations, as secretary and general manager of the Linares Land and Mining Company, whose property is located some 15 miles northwest of San Carlos.

Mr. Work believes his life to be in great danger, and that his large interests are in peril, owing to the unfriendly feeling of the inhabitants and the indifference of the local authorities.

I beg your excellency's immediate attention to the case, feeling assured that you will issue such instructions to the authorities of Tamaulipas as will lead to the protection of Mr. Work and family, as well as his speedy trial for the offense with which he is charged.

I would at the same time, renew, etc.,

EDWD. S. BRAGG.

## No. 777.

### *Mr. Bragg to Mr. Bayard.*

No. 11.] LEGATION OF THE UNITED STATES,
*Mexico, March* 28, 1888. (Received April 5.)

SIR: I beg to transmit translated copy of a note from Mr. Mariscal, advising me of the release of Oliver Woods in Durango.

Upon the receipt of this note, on the 17th instant, I telegraphed you as follows:

Governor Durango telegraphed yesterday foreign office Oliver Woods released February 29. Particulars not arrived yet.

Not having received the communication referred to by Mr. Mariscal, I have decided to forward the inclosed note to you without further delay.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 11.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, March* 16, 1888.

MR. MINISTER: In reply to your excellency's note, dated the 9th instant, and relative to the arrest of the American citizen, Oliver Woods, I have the honor to inform you that I am just in receipt of a telegram from the secretary of the governor of the State of Durango, of even date, in which he advises me as follows:

"Under date of the 6th instant I officially notified you that the American citizen, Oliver Woods, had been placed at liberty on February 29 last. In due reply to your telegram of yesterday, I hereby ratify my communication above referred to."

While having the satisfaction of transmitting the above to your excellency for your information and in response to your note aforementioned, I should add that I did not at once answer your note because the communication referred to in the foregoing telegram has not as yet reached this Department.

I improve, etc.,

IGNO. MARISCAL.

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## No. 778.

### *Mr. Bragg to Mr. Bayard.*

No. 12.] LEGATION OF THE UNITED STATES,
*Mexico, March* 28, 1888. (Received April 5.)

SIR: I take satisfaction in forwarding copy and translation of a circular issued on the 12th instant by the war department here, to Mexican officers, calling their attention to some late trespasses by their troops along the frontier, similar to the Nogales incident of 1887; also enjoining upon them greater care and vigilance, so that like abuses may not be repeated.

I am, etc.

EDWD. S. BRAGG.

[Inclosure in No. 12.—Translation.]

"*Diario oficial*," *March* 20, 1888.

DEPARTMENT OF WAR,
*Department of Special Staff.*

CIRCULAR No. 105.]

It has reached the knowledge of this Department that, despite the severity with which the law dealt with the offense committed at Nogales last year by Colonel Arvizú, like occurrences are being repeated along the frontier. This not only discredits the nation and results in disparagement, but may also occasion international disputes, all the more to be regretted since Mexico has ever been careful to respect the rights of neighboring nations in order that they may respect hers.

Therefore, under express consent of the President of the Republic, I recommend that you advise the respective chiefs subordinate unto you to exercise constant vigilance to the end that the armed troops under their orders, who are charged with the preservation of order and to give every guarantee to the citizens of those localities and along the frontier, shall comply strictly with their duties, and yield the most thorough obedience to discipline. And you shall be responsible for, and avoid all classes of disturbances—above all such as call forth this circular—and should any transpire, you shall punish the guilty parties as military law provides.

Liberty and Constitution.

Mexico, March 12, 1888.

HINOJOSA.

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## No. 779.

### *Mr. Bragg to Mr. Bayard.*

No. 13.] LEGATION OF THE UNITED STATES,
*Mexico, March* 28, 1888. (Received April 5.)

SIR: Referring you to my No. 10, of 23d instant, relative to the case of B. C. Work, imprisoned in Tamaulipas, I have now the honor to inclose translation of a note from Mr. Mariscal, advising me that the governor of Tamaulipas has been charged to secure Mr. Work a fair trial.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 13.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, March* 23, 1888.

Mr. MINISTER: I have the honor to reply to your excellency's note, dated yesterday, and relative to the complaint of the American citizen B. C. Work, who is in jail at San Carlos, charged with murder, and advise you that I have to-day requested information thereon from the governor of the State of Tamaulipas, and, at the same time, I have recommended the said official to take care that Work should be tried under entire conformity to justice, and that he grant him all the guaranties furnished by the laws.

I remain, etc.,

IGNO. MARISCAL.

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## No. 780.

### *Mr. Bragg to Mr. Bayard.*

No. 20.] LEGATION OF THE UNITED STATES,
*Mexico, April* 9, 1888. (Received April 16.)

SIR: Upon receipt of your No. 15, of 22d ultimo, relative to the recent attempt to kidnap a Mexican deserter, Atanacio Luis, from Eagle

Pass, Texas, I caused a copy to be made of your instruction and the accompanying deposition, and to-day forwarded said copy to Mr. Mariscal, with a note, transcript of which I have the honor herewith to inclose.

The limited clerical force of this legation prevented me from making an earlier presentation of this case to the Mexican Government, but I trust my representations will meet with your approval.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 20.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, April 9*, 1888.

SIR: Under specific instructions from my Government, I have now the honor to lay before your excellency the particulars of the attempted kidnapping of Atanacio Luis, an alleged deserter, by Mexican officers and soldiers on March 3, 1888, at Eagle Pass, in the State of Texas.

The offense is increased in gravity by the fact that it seems to have been deliberately planned by an officer of rank. And while it affords me great pleasure to learn unofficially of the prompt action of your excellency's Government in the arresting and holding for trial of the offenders—the official confirmation of which will be received with like satisfaction by my Government—yet the gravity of the questions involved requires me respectfully to submit to your excellency a copy of the instructions and papers received by me from my Government touching the same, from which the details of the outrage and the views of my Government concerning the same will be made known to your excellency, from whom I have the fullest confidence all the questions involved will receive such consideration as they justly deserve.

Allow me, etc.,

EDWD. S. BRAGG.

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## No. 781.

*Mr. Bragg to Mr. Bayard.*

No. 23.] LEGATION OF THE UNITED STATES,
*Mexico, April* 14, 1888. (Received April 21.)

SIR: I have the honor herewith to inclose to you translated copy of reply received from Mr. Mariscal to my note (No. 20) relating to the invasion of American soil at Eagle Pass by Mexican officers and soldiers.

When the information promised by Mr. Mariscal reaches me it will be promptly forwarded to you.

I am, etc.,

EDWD. S. BRAGG.

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Inclosure in No. 23.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, April* 13, 1888.

Mr. MINISTER: I have the honor to acknowledge receipt of your excellency's esteemed note, dated the 9th instant, with which you were pleased to inclose copy of the instructions and depositions forwarded to you by Hon. Mr. Bayard, Secretary of State of the United States, relative to the occurrences at Eagle Pass, on the 3d of March, when an officer and three soldiers crossed over into the said town for the purpose of arresting a deserter called Atanacio Luis.

In effect, the Government of Mexico regrets, as is natural, the lamentable event, and, as soon as it learned of the occurrence, ordered the arrest and trial by court-martial of the parties who appeared guilty.

The President of the Republic so set forth in his message delivered on the 1st instant, at the opening of this present session of the Congress of the Union, and the Government of your excellency may rest assured that full justice will be done in the case.

I will duly communicate to your excellency the result of the trial, and have requested the same from the War Department.

In closing this note it gratifies me to advise your excellency that you are correct in supposing that the questions related to this case will receive merited consideration from the Government of Mexico.

I protest, etc.,

IGNO. MARISCAL.

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## No. 782.

### *Mr. Bragg to Mr. Bayard.*

No. 28.] LEGATION OF THE UNITED STATES,
*Mexico, April* 20, 1888. (Received April 30.)

SIR: From the inclosed clipping taken from the Two Republics, of this morning you will see that the trial of Captain Muñoz and Lieutenant Cabrera, the officers implicated in the late invasion of American soil at Eagle Pass, was commenced yesterday. The names of the jury are also given.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 28.—Extract from the "Two Republics."]

*Court-martial of Captain Muñoz and Lieutenant Cabrera.*

MEXICO, *April* 20, 1888.

A dispatch from Monterey says that the court martial case of Captain Muñoz and Lieutenant Cabrera, of the Piedras Negras affair, began yesterday. The jury consists of the following-named officers: Lieut. Cols. Feline Vega, Juan P. Farions, and Antonio Canales; Majors Florentin Valvera, Judan Milan, and Alejandro Pena, and Capt. Antonio Garza. They have been stationed at different points in the States of Nuevo Leon and Coahuila. The trial is being held in the senate chamber in the statehouse.

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## No. 783.

### *Mr. Bragg to Mr. Bayard.*

No. 29.] LEGATION OF THE UNITED STATES,
*Mexico, April* 24, 1888. (Received May 1.)

SIR: Last Saturday, the 21st instant, I sent you a telegram stating that the sentence of the court-martial condemning the officers who participated in the affair at Nogales had been affirmed.

The Diario Official of the previous evening contained, in six columns, the decision of the supreme military court confirming the sentence of death in the case of Colonel Arvizú and Lieutenant Gutierrez. The substance of the publication was that the counsel for the defense appealed to the first chamber of the supreme military court,

of which General Juan N. Mendez is chief-justice. The final sentence, affirming that of the second chamber of the said supreme court, and in which all the judges of the first concur, was comprised of the following findings:

I. The recourse of appeal was legally interposed, save in the point raised as to the violation of rules of procedure.

II. The sentence of the second chamber of this court, as rendered in this case, may not be, and is not annulled, and must be executed.

III. The attorneys for the defense, who appealed on the ground of a violation of rules of procedure, are severally fined $10 each.

I did not deem it advisable to reiterate the request for clemency made in behalf of Colonel Arvizú and Lieutenant Gutierrez by the Department of State last May. The repetition of like offenses since that time evidences that the Mexican officers on the frontier are yet in need of some severe lesson which shall serve to restrain them hereafter from like attempts against the inviolability of American soil. I do not, however, anticipate that the sentence of death will be executed. The President will, doubtless, especially in view of the remonstrance of last year from the State Department, commute the sentence. I have received no communication from Mr. Mariscal on the subject.

I am, etc.,

EDWD. S. BRAGG.

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No. 784.

*Mr. Bragg to Mr. Bayard.*

No. 30.] LEGATION OF THE UNITED STATES,
*Mexico, April* 28, 1888. (Received May 5.)

SIR: By the inclosed translation of note from Mr. Mariscal you will see that the President has commuted to twenty years' imprisonment the death sentence passed upon Col. Francisco Arvizú and Lieut. Benjamin Gutierrez, for a violation of article 3513 of the Mexican military code, in an invasion of American soil at Nogales, in the spring of 1887.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 30.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, April* 27, 1888.

Mr. MINISTER: Referring to the correspondence exchanged between this Department and your legation, relative to the proceedings instituted against Colonel Francisco Arvizú and Lieutenant Benjamin Gutierrez, for violation of the 3513th article of the military code, I have the honor to advise your excellency that, in the exercise of his faculties, the President has seen fit to commute the capital sentence passed upon those officers to twenty years' imprisonment.

While ordering this communication, in response to the petition of the guilty parties, the Chief Magistrate has considered it advisable to follow the humane suggestions from your excellency's Government, as contained in the note from your predecessor, dated the 16th of last May, and thus afford, on this occasion, a proof of friendly deference to your Government.

I improve, etc.,

IGNO. MARISCAL.

No. 785.

*Mr. Bayard to Mr. Bragg.*

No. 42.] DEPARTMENT of STATE,
*Washington, May* 4, 1888.

SIR: I have to acknowledge the receipt of Mr. Connery's dispatch of the 21st of February last, numbered 306, inclosing a translation of a note from Mr. Mariscal of the 10th of the same month, in relation to the case of A. K. Cutting.

It is regretted that the representations of this Government, especially in regard to their chief object—to secure the modification by Mexico of her claim of criminal jurisdiction over the territory of the United States—have not received more favorable consideration from Mr. Mariscal. In my instruction to Mr. Connery the question of compensation to Mr. Cutting was subordinated to that vastly more important issue, and was not, in view of his general course of conduct and of his early discharge by the supreme court of Chihuahua, intended to be bound up with it. Mr. Connery was instructed to say to the Mexican Government "not only that an indemnity should be paid to Mr. Cutting for his arrest and detention in Mexico on the charge of publishing a libel in the United States against a Mexican; but also in the interests of good neighborhood and future amity, that the statute proposing to confer such jurisdiction should, as containing a claim invasive of the independent sovereignty of a neighboring and friendly state, be repealed."

I then proceeded to show that there were important precedents, in view of which it would be highly honorable to Mexico to make such modification of her law.

The question of pecuniary indemnity was not urged as a necessary incident or consequence thereof, nor was it deemed desirable that it should be suffered to interfere with the consideration of the more important question of jurisdiction by being presented in connection with it.

The consideration of Mr. Cutting's personal merits or of the general features of his conduct can not be regarded as affecting in any way the essential principle of international right and independent sovereignty which his case involved, and which it is so obviously the interest of the United States and Mexico to have settled.

At the close of his note Mr. Mariscal sums up the results of his arguments in various propositions, of which the eighth is as follows:

> The right which every nation has to impose national conditions upon the entry of foreigners upon its own territory conveys with it the right within the limits of legislation to hold such foreigners responsible for acts they may commit abroad against that nation, or against any of its citizens or subjects.

The fallacy of the last clause of the proposition can not be more clearly shown than by referring to that part of the same note in which Mr. Mariscal endeavors to show that Fiore, notwithstanding the express declarations quoted by this Department from his works, does not antagonize or condemn the punishment by a state of a foreigner when he offends one of its citizens in a foreign country. To prove this, Mr. Mariscal quotes from section 66 of Fiore's "Droit Pénal International," in which the learned author admits the right of the state "to punish every individual without distinction, be he foreigner or native, when he, by acts committed abroad, may have transgressed the laws that

sustain our institutions, or may have violated the rights either of a state *or those of persons protected by our laws.*"

This passage, which Mr. Mariscal has quoted to sustain his contention, seems to me to be fatal to it. If it could be contended that a Mexican or any other foreigner is protected in the United States by the municipal law of his own country, then the passage quoted from Fiore might be held to contradict his explicit declaration that he can not admit the doctrine that—

> The extraterritoriality of penal law ought to depend on the quality of the person to the prejudice of whom the offense has been committed;

And his further declaration that he can not admit—

> That a rule of action may be violated which was not obligatory in the place where the offense was committed.

But it can not be contended that foreigners are protected in the United States by their national laws. Fiore himself says that "no sovereign can exercise his repressive power on territory under the dominion of another sovereign." (Droit Pénal International, Paris, 1880, p. 94.) Nor am I acquainted with the works of any author, ancient or modern, who holds an opposite opinion.

Hence, when Fiore limits penal jurisdiction to the punishment of infractions of the rights of a state or of persons protected by its laws, he clearly and unmistakably negatives the claim of extraterritorial jurisdiction, against which this Government protested in the case of Mr. Cutting. No sovereign state can admit that its citizens are subject in their own country to the control of a foreign municipal law. And so must every sovereign state equally repudiate the correlative proposition that foreigners within its territory are protected by the municipal law of their own country or countries against the acts of citizens of such state. Such a doctrine would carry the extraterritoriality of penal law even beyond the limits set in the conventions between Christian and non-Christian countries, under which the citizens of the former are exempt from the local law, and would produce a confusion and conflict of jurisdictions which could only lead to dangerous and frequent disputes. It is not denied that a state may impose "rational conditions upon the entry of foreigners upon its own territory," as Mr. Mariscal contends, but in the opinion of this Department no condition can be regarded as rational, or as consistent with those amicable relations which nations should seek to cultivate and foster, that derogates from the sovereignty and exclusive jurisdiction of foreign states over their own territory.

In view of these circumstances, it is hoped that the Government of Mexico will yet see its way to a modification of article 186.

In regard to Mr. Mariscal's reference to the codes of New York and Texas, and his expression of surprise that they are not noticed in the report on extraterritorial crime, it should be observed that they are both discussed at page 25 of that document, and shown to rest, as to the provisions cited by Mr. Mariscal, on a principle precisely opposite to that which he has defended in article 186 of the Mexican penal code.

You are authorized to state the views herein expressed to Mr. Mariscal and to leave him a copy of this instruction should he desire it.

I am, etc.,

T. F. BAYARD.

No. 786.

*Mr. Bragg to Mr. Bayard.*

No. 35.] LEGATION OF THE UNITED STATES,
*Mexico, May* 5, 1888. (Received May 12.)

SIR: I beg to inclose herewith translation of a note from Mr. Mariscal, advising this legation that B. C. Work, the American citizen, charged in Tamaulipas with homicide, "is in the enjoyment of all the guaranties which the law accords," and that "the court is endeavoring to expedite the trial."

From the wording of the report of the judge at Victoria, I presume Mr. Work is at large on bail.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 35.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, May* 3, 1888.

Mr. MINISTER: Referring to my note of the 23d of March last, relative to the complaint of the American citizen B. C. Work, charged with homicide, I have the honor to inform your excellency that I have just received a communication from the governor of the State of Tamaulipas, dated the 10th of April, inclosing a report from the judge of first instance at Ciudad Victoria, from which it appears that Work is subject to criminal process for homicide he perpetrated on the person of Francisco Cruz. The following is stated in that respect:

"The court is endeavoring to expedite the trial, in order that proof may be established touching the degree of culpability of Work, or concerning the weight to be given to the points of defense raised by him. Meanwhile, he is in the enjoyment of all the guaranties which the law accords to his person, and he has even been permitted, in as far as is compatible with his character of accused, to attend to his private business."

I protest, etc.,

IGNO. MARISCAL.

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No. 787.

*Mr. Bayard to Mr. Bragg.*

No. 46.] DEPARTMENT OF STATE,
*Washington, May* 7, 1888.

SIR: I have received your dispatch No. 30 of the 28th ultimo, in which you report that the death sentence of Colonel Arvizú and Lieutenant Gutierrez, the Mexican officers implicated in the Nogales incident, has been commuted by President Diaz to twenty years' imprisonment.

Your previous dispatch (No. 29) of the 24th ultimo, in which you expressed your belief that the sentence in question would be commuted, prepared me for this announcement.

I observe that in his note of 27th April, informing you of this act of clemency, Señor Mariscal is pleased to say that in thus favorably acting upon the petition of the condemned men the President "has considered it advisable to follow the humane suggestions" previously offered by the Government of the United States, "and thus afford on this occasion a proof of friendly deference" to this Government.

Every new illustration of friendly deference by Mexico to the disinterested suggestions of this Government is very gratifying, and in the present case is additionally so, being blended with mercy to prisoners under sentence of death.

I am, etc.,

T. F. BAYARD.

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No. 788.

*Mr. Bragg to Mr. Bayard.*

No. 37.] LEGATION OF THE UNITED STATES,
*Mexico, May* 8, 1888. (Received May 15.)

SIR: I have the honor to inclose herewith the text in Spanish and French, with English translation, of the Franco-Mexican treaty of amity, commerce, and navigation, ratified in this capital on the 14th ultimo, and just published in the Diario Oficial. As you will see, the treaty is to remain in force until February 1, 1892, with the privilege of indefinite renewal under certain circumstances.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 37.—Extract from "Diario Oficial" of May 4, 1888.—Translation.]

*Treaty of amity, commerce, and navigation between Mexico and France.*

DEPARTMENT OF STATE AND OF THE BUREAU OF FOREIGN AFFAIRS,
SECTION FOR EUROPE, ASIA, AND AMERICA,
*Mexico April* 20, 1888.

The President of the Republic has seen fit to direct to me the following decree:

Porfirio Diaz, President of the United Mexican States, to all the inhabitants of the same, know ye:

That upon the twenty-seventh day of November, of the year one thousand eight hundred and eighty-six, a treaty was concluded and signed between the United Mexican States and the French Republic, by means of plenipotentiaries duly empowered thereto, and which treaty, in form and tenor, was as follows, to wit:

The President of the United Mexican States and the President of the French Republic, alike desirous to maintain the cordial relations subsisting between the two countries; to strengthen, if possible, their ties of friendship, and to develop the commercial intercourse of their respective citizens, have determined to establish a treaty of amity, commerce, and navigation upon a basis of equitable reciprocity, and to that effect have appointed their respective plenipotentiaries, to wit:

The President of the United Mexican States: Honorable Don Genaro Raigosa, senator of the Republic, and

The President of the French Republic, M. Gaétan Partiot, envoy extraordinary and minister plenipotentiary of the French Republic in Mexico, Knight of the Legion of Honor, officer of Public Instruction of France, of the Grand Cross of Naval Merit of Spain, etc., etc.,

Who, after having compared and exchanged their full powers, found to be in good and due form, have agreed upon the following articles:

ART. 1. There shall be perpetual peace and amity between the United Mexican States upon the one hand and the French Republic upon the other, and between their respective citizens, without distinction of persons or places.

ART. 2. There shall be, reciprocally, full and complete liberty of commerce and of navigation extended to the citizens and the shipping of the high contracting parties in all the cities, ports, rivers, and any places whatsoever of the two States, or of their dependencies, the entrance to which is now, or may be hereafter, permitted to the subjects and the shipping of any other foreign power.

Mexicans in France and the French in Mexico shall reciprocally be free to enter and reside in any part of the said states and dependencies, respectively, and, to that end, shall enjoy, in their persons and property, the same protection and security accorded to the natives thereof.

Throughout the extent of the two states they shall be permitted to follow industrial pursuits; carry on commerce, either by wholesale or retail; lease, rent, or hold in possession, houses, warehouses, establishments or lands which may be necessary to them; engage in the transportation of merchandise and of specie, and receive consignments from the interior as well as from abroad, paying the duties and licenses established by the laws in force in the country of their residence, and which are binding upon the citizens of the same.

They shall, in matters of purchase and sale, be equally at liberty to stipulate and to fix the market value of the merchandise, effects, and goods of any kind whatsoever imported as well as exported, those sold at home as well as such as may be designed for purposes of exportation; subject always to the laws, usages, and statutes of the two countries respectively.

They may negotiate and conduct their business affairs directly, or through representatives or agents duly empowered thereto, either in the sale or purchase of their own goods, effects, or merchandise, under their own customs manifest, or in the loading, unloading, and clearance of their ships. Finally they shall not be subject to other charges, fees, duties, or imposts than those collected from the native citizens.

The citizens of either of the high contracting parties shall enjoy, within the territory of the other, the same privileges held by natives touching patents, trade-marks, labels, and sketches. As regards copyright, the citizens of each of the high contracting parties shall, within the territory of the other, enjoy the most favored nation treatment.

ART. 3. The citizens of the two nations shall enjoy, within each other's territory, the most complete and constant protection for their persons and property. They may, in all the grades of tribunals of justice, and under the entire scope of jurisdiction, as defined by the laws, institute proceedings in defence and prosecution of their rights. They shall be permitted to engage lawyers, counsel, or agents of any class whatsoever, whom they may elect to represent them and to act in their place and stead, all in accordance with the laws of the land; they shall also, in this connection, enjoy the same rights and privileges which are, or may be, granted to native citizens, and the enjoyment of such privileges and rights shall impose upon both like conditions for compliance.

ART. 4. Mexicans in France and the French in Mexico shall enjoy the benefits of legal counsel in conformity with the laws of the land wherein legal assistance is sought on grounds of indigency.

Nevertheless, the fact and state of poverty plead under the formalities set up by those laws shall be further accredited before the competent authorities of the native country of the petitioner, and, after being duly authenticated and legalized by the diplomatic or consular agent of the other country, shall be transmitted through the Government of the petitioner.

ART. 5. Mexicans in France and the French in Mexico shall possess, in common with native citizens, the right to acquire, hold, and convey, by succession, will or testament, donation, or in any other manner whatsoever, personal property located in the respective states; and shall not be obliged to pay other or higher duties or imposts of succession or disposal than those levied, in like cases, upon the citizens of the power in which they may reside.

Touching the acquisition of real estate, the French in Mexico and Mexicans in France shall be treated as the citizens of the most favored nation.

ART. 6. The succession of personal estates shall be subject to the laws of the land wherein such property is found, and the courts of that country shall have exclusive jurisdiction upon all points of process and suit brought about thereby.

All questions pertaining to right of succession of real estate properties lying within either state, and belonging to the citizen of the other state, whether such citizen at the time of his decease were a resident or merely transient therein, shall be adjudged by the authorities or courts of the country wherein said real property be found, but in accordance with the legislation of the law of the land of the deceased.

ART. 7. Mexicans in France and the French in Mexico shall be exempt from all personal service either in the army or the navy, or in national guards or militia, and shall be likewise exempt from war levies and from forced loans in every case, save where such requisitions, levies, or loans be liens upon realty in the land itself, in which event they shall contribute alike with the native citizens. In all other cases they may not be forced, either in their personal or real properties, to pay other charges or imposts than those binding upon the native citizens or upon the citizens of the most favored nation.

It is hereby stipulated that whoever requires the application of the closing part of this article may select either of the two treatments which best suit him.

ART. 8. Ships, cargoes, merchandise, or goods belonging to citizens of either state can not respectively be seized or held for the purposes of any military expedition, nor for any other purpose of public service without a prior indemnity being agreed upon by the interested parties, which shall be fixed and paid, and shall be full and

sufficient for all demands in lieu of losses or damages occasioned by the service thus undertaken.

ART. 9. The citizens of each of the contracting parties shall, within the territory of the other, enjoy the most perfect liberty of conscience, and shall be allowed the free exercise of their worship, according to the laws and the constitution of the land.

ART. 10. For the purpose of diminishing the evils attendant upon war, it is hereby agreed that if hereafter the peaceful relations of the two states should unfortunately become disturbed, the citizens of each, resident within the cities, ports, and territories of the other, and who therein are engaged in commercial pursuits or in the exercise of any other profession, shall be permitted to remain in their place of residence, and to continue in their business, provided always that they do not commit any violation of the laws of the land. In case their conduct should cause them to forfeit that privilege, and when the respective Governments deem it necessary to expel them from their territories, the former shall grant the latter a sufficient term within which to arrange their affairs.

In no case of war or of conflict between the two nations shall the goods or property of any kind whatsoever, belonging to citizens of the foreign state, be subject to search or embargo, or any other charges and imposts binding upon native citizens. Likewise during time of war, the private debts of foreign citizens, as well as the Government bonds and shares of banking and other institutions held by them, shall not be subject to search or confiscation, to the injury or detriment of the citizens respectively and to the benefit of the country in which such citizens reside.

ART. 11. The contracting parties agree to grant to envoys, ministers, and public agents the same exemptions, favors, and immunities which the envoys, ministers, and public agents of the most favored nation do now, or may hereafter, enjoy.

The aforesaid contracting parties, desirous of avoiding all that might in any wise disturb their mutually friendly relations, do agree that their diplomatic representatives shall not intervene officially, save to obtain when practicable a pacific arrangement regarding the complaints and claims of private parties, when such complaints have been submitted to the action of the courts, unless it be in the event of a denial of justice, of delay in the administration thereof, contrary to law or usage, or in the case of lack of execution of legally binding sentences, or, finally, whenever, despite all legal recourse, there may have been manifest violation of treaties obligatory upon both contracting parties, or of the rules of international law, public or private, generally accepted by civilized nations.

It is also further agreed between both contracting parties that their respective Governments, save in cases of neglect or of lack of vigilance on the part of the authorities of the land and their agents, shall not be reciprocally responsible for the damages, injuries, or exactions which the citizens of one may suffer within the territory of the other on account of insurgents, insurrections, or civil war, or because of savage tribes or bands which are beyond the authority and power of the Government.

ART. 12. The duties of importation in the United Mexican States upon the produce of the soil or of the industry of France, and in the French Republic upon the produce of the soil or of the industry of Mexico, shall not be in excess of or differ from the import duties levied upon like products of the most favored nation.

The same principle shall be observed with regard to duties on exportation.

There shall be no restriction placed upon importation or exportation reciprocally engaged in by both countries, unless it be applied to other nations, the exception to the above rule being only in case of the avoiding of epizootical epidemics, or of loss of crops, or in the event of war.

ART. 13. Merchandise of all classes, coming from one state or leaving it, is reciprocally exempted in the other state from all transit duties, save in case such duties are imposed upon the other nations.

Nevertheless, the special legislation of each state shall be respected as regards articles the transit of which is or may be prohibited; and the high contracting parties reserve to themselves the right to subject to special regulations the transfer of arms and munitions of war.

ART. 14. The two contracting parties do severally engage not to grant to the subjects of any other power, in navigation or in commerce, any privilege, favor, or immunity, be these what they may, which shall not be, at once, and during the time of such concession, extended to the commerce and navigation of each other; and each shall reciprocally enjoy all the privileges, immunities, and favors which may, or shall, have been conceded to any other nation.

ART. 15. In whatever relates to harbor patrols, and to the loading or unloading of ships, or to the safe-keeping of merchandise and effects, the citizens of both powers shall be subject to local laws and regulations.

Touching Mexican ports, in the above category are included the laws and regulations issued, or to be hereafter issued, by the Federal Government, as well as the provisions of the local authorities, within the limits of the jurisdiction of the sanitary police.

The contracting parties agree to consider boundaries of their territory along their respective coasts, at a distance of *twenty kilometers*, reckoning from the lowest tide-mark. This rule shall be, however, applicable alone to the matter of customs search, the execution of customs ordinances and preventive measures against smuggling; but it shall by no means apply in all other questions springing from international maritime law.

It is likewise agreed that neither of the contracting parties shall apply to the ships of the other contracting party the above designated extension of territorial limits save in case the same contracting party proceed in like manner with respect to the shipping of other nations with whom it may have treaties of commerce and navigation.

ART. 16. Mexican vessels which enter the ports of France, and French vessels which enter the ports of Mexico, with cargo or in ballast, shall not pay other nor higher charges on account of tonnage, light, or harbor dues, pilotage, salvage, or such as affect the hull, than those which are, or hereafter may be, obligatory upon the ships of the most favored nation.

With respect to local charges and treatment, such as the anchorage of vessels, their unloading and loading, as well as the fees and imposts of all kinds, in ports, anchorage-grounds, docks, roads, inlets, and rivers of both countries, and, in general, all the formalities and provisions to which merchant marine, with their crew, may be subject, all the privileges, favors, and immunities which are, or which may hereafter be, conceded to the vessels of the most favored nation, and to their imported and exported merchandise, shall be likewise granted to the vessels of the other state, and to the imports and exports carried in the vessels of said state.

ART. 17. The following shall be exempt from tonnage, harbor, and clearance dues, but not from pilotage charges:

First. Vessels which, hailing from any port, enter and leave in ballast.

Second. Vessels which, having passed from one port of either state to another or other ports of the same state, be it to discharge all or part of their cargo, or to arrange and complete their cargo, may furnish guaranties of having paid the duties on the same.

Third. Steamers dedicated to the mail service and to the carrying of passengers and baggage, provided they transact no business.

Fourth. Vessels which enter a port voluntarily or as forced arrivals, and which depart without transacting any business.

Nevertheless, with regard to the vessels mentioned in the two preceding counts, the captains of the same shall be obliged, within the term of thirty-six hours after their admission to customs supervision, to file in the custom-house a bond, satisfactory to the authorities of the same, to cover the total charges for tonnage, harbor, and clearance dues, in the event that the vessels in question should effect any business transaction.

In cases of forced arrival, business transactions shall not include the unloading and reloading of merchandise for the repair of vessels, or for their disinfection during a quarantine; the transfer of effects from one vessel to another, in case either becomes incapacitated for purposes of navigation; the necessary expenses to revictual for the crew, and, with the due authorization of the custom-house, the sale of damaged effects.

ART. 18. Navigation dues, tonnage, and other charges, which are collectable in proportion to the capacity of vessels, should be collected from French vessels, in the ports of the United Mexican States, according to the register of the vessel.

Similar process is to be followed respecting Mexican vessels in the ports of France.

ART. 19. The provisions of this treaty are not applicable to shore or coasting trade, which is subject to the respective legislation of both contracting states.

Notwithstanding, Mexican vessels in France and French vessels in the United Mexican States may unload part of their cargo at the first port touched, and proceed with the rest to other ports of the same state, either for the purpose of discharging therein the freight brought therefor or to complete thereat their return cargo, and may not, therefore, pay in each port other nor higher duties than those which in like circumstances are paid by the most favored nation.

ART. 20. Whatever relates to fisheries (which are subject to the legislation of each of the contracting states) is likewise exempt from the workings of this treaty.

ART. 21. Whenever the citizens of either of the contracting parties shall be forced by stress of weather, or by any other cause, to seek refuge with their vessels in the ports, bays, rivers, or territories of the other contracting party, they shall be received and treated with humanity, with the precautions which may be deemed expedient on the part of the Government interested to avoid fraud. They shall also be granted all favor and protection for repairing their vessels, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

Within the territory of each of the contracting parties, merchant ships of bot

crews of which, by reason of sickness or otherwise, are incomplete, may enlist the sailors needful for the further continuance of their voyage, in accordance, however, with local laws and regulations, and under the condition that the enlistment of the sailors shall be wholly voluntary upon the part of the latter.

ART. 22. When any vessel belonging to either of the contracting parties shall be wrecked, foundered, or shall suffer any damage on the coasts or within the dominions of the other there shall be given to it all the assistance and protection which is customary with the vessels of the nation where the damage happens. In case of necessity they shall be permitted to unload the said vessel of its merchandise, with the precautions which the Government interested may deem expedient to avoid fraud, nor shall the merchandise and other effects saved pay duties or sustain imposts of any class whatsoever, unless the said merchandise and effects are designed for consumption in the interior, in which case they shall be subject to the treatment accorded in like circumstances, to the most favored nation.

ART. 23. Ships belonging to citizens of either country shall be regarded as Mexican in France and French in Mexico, whenever they travel under the respective flags, and are carriers of their respective ship-registers, and are provided with the sets of documents required by the laws of each state as proof of the nationality of merchant vessels.

ART. 24. Ships of war belonging to either of the two powers may enter and remain in those ports of the other power the entrance to which is accorded to the war vessels of the most favored nation, and may repair damages therein; they shall also be there subject to the same honors, advantages, privileges, and exemptions enjoyed by the most favored nation.

ART. 25. Vessels charged with postal service, and the property either of the state or of companies subsidized by one of the two states, can not be swerved from their course, nor be subject to capture, detention, embargo, or sequestration.

ART. 26. Mexican citizens shall within French colonies and possessions enjoy the same rights and privileges and the same liberty of commerce and navigation as that conceded to the citizens as subjects of the most favored nation; and, reciprocally, the inhabitants of the French colonies and possessions shall enjoy, in all their extent, the same rights and privileges and the same liberty of commerce and of navigation as are by this treaty granted within the United Mexican States to the French to their commerce and their ships.

ART. 27. Pending the celebration of a consular convention, the two high contracting parties do hereby agree that their consuls, vice-consuls, and consular agents shall enjoy, respectively, the same favors, privileges, and immunities now granted or which may hereafter be granted to the consuls, vice-consuls, and consular agents of the most favored nation.

ART. 28. The provisions of this treaty apply to the Algerian possessions.

ART. 29. The present treaty shall be ratified, and the ratifications shall be exchanged, upon the due fulfillment of the formalities assigned under the constitutional legislation of the contracting states.

It shall be in force from the day of the exchange of said ratifications until the 1st of February, 1892, and shall be promulgated within two months from the date.

In case neither of the two high contracting parties shall have given notice to the other one year prior to the 1st of February, 1892, of its intention to terminate the same, this treaty shall remain and be in force for one year more after notice is given by either of the high contracting parties terminating it.

The high contracting parties reserve, by mutual consent, the right to ingraft upon this treaty such modifications as may not be in antagonism with their spirit and principles, and the utility of which shall have been demonstrated by experience.

In witness whereof, the respective plenipotentiaries have signed and sealed these presents.

Done in Mexico on the twenty-seventh of November, the year one thousand eight hundred and eighty-six.

G. RAIGOSA.
GAÉTAN PARTIOT.

That the preceding treaty was approved by the senate of the United Mexican States on the thirteenth day of December, of the same year, one thousand eight hundred and eighty-six.

That, therefore, in the exercise of the faculty conferred upon me by the X section of the eighty-fifth article of the federal constitution, I have hereby approved, ratified, and confirmed said treaty on the fifth day of March of this present year.

That, having been likewise approved by the French Chambers, this treaty was ratified by the President of that Republic on the seventeenth day of the aforesaid month of March;

And that the ratifications were exchanged in this capital upon the fourteenth day of this month.

I therefore order that the same be printed, published, and that it be duly observed.
Palace of the Federal Government, Mexico, April 17, 1888.

PORFIRIO DIAZ.

To Hon. Ignacio Mariscal,
Secretary of State and of the Department of Foreign Affairs.
I communicate, etc.,

MARISCAL.

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## No. 789.

### *Mr. Bayard to Mr. Bragg.*

No. 48.] DEPARTMENT OF STATE,
*Washington, May* 10, 1888.

SIR: I inclose for your information a copy of a letter from the Acting Secretary of the Interior, of the 7th instant, with its accompaniments, in regard to the condition of affairs along the Mexican border in Arizona Territory, which the agent of the Pima Agency apprehends may possibly lead to open hostilities between the Mexicans and the Papago Indians. Mr. Howard, the agent at Sacaton, states that living on the border of Sonora are perhaps two thousand of such Indians under his charge, and that for years it has been their custom to cross the line into Sonora at pleasure and unmolested, both for the purpose of watering their stock when necessary and of visiting Papago and other Indians living there.

On the 6th ultimo a party of six Papago Indians crossed to Sonora to attend a "fiesta," given by their friends, when they were halted by seven armed Mexicans and informed that they were arrested by order of the Mexican Government. The Indians protested that they were innocent of any crime and asked an explanation of the cause of their arrest, which was denied them. The Mexicans sent for re-enforcements, and upon their arrival opened fire upon the Indians, killing one horse. The fire was returned and kept up for several miles until the Indians finally escaped.

You will thoroughly familiarize yourself with this correspondence, especially the letter of Indian Agent Howard, since it may be well for you by discreet inquiry to endeavor to ascertain what is the status of these Indians under Mexican law and practice.

I need not enlarge upon the grave importance to both the United States and Mexico of protecting these people in the quiet enjoyment of their property and their customary privileges, in order at least to avoid any excuse for disorders on their part which it might be extremely difficult to repress and which might lead to serious consequences.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 48.]

### *Mr. Muldrow to Mr. Bayard.*

DEPARTMENT OF THE INTERIOR,
*Washington, May* 7, 1888.

SIR: I have the honor to invite your attention to the accompanying copy of a letter of the 5th instant from the Commissioner of Indian Affairs, and inclosure therein noted, relative to the condition of affairs along the Mexican border in Arizona Terr-

tory, which the agent of the Pima Agency thinks is likely to lead to open hostilities between the Mexicans and the Papago Indians.

A copy of the papers above referred to has this day been transmitted to the honorable Secretary of War for his information.

I have, etc.,

H. L. MULDROW,
*Acting Secretary.*

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[Inclosure 2 in No. 48.]

*Mr. Atkins to Mr. Muldrow.*

DEPARTMENT OF INTERIOR,
*Washington, May* 5, 1888.

SIR: I have the honor to invite your attention to the inclosed copy of a letter dated April 16, 1888, from United States Indian Agent E. A. Howard, of the Pima Agency, Arizona Territory, reporting a condition of affairs along the Mexican border in Arizona Territory, which in his judgment is likely to lead to open hostilities between the Mexicans and the Papago Indians on this side of the line, and occasion serious complications between the two countries, unless proper steps are taken to put a stop to the repeated aggressions of the Mexicans.

I would respectfully recommend that a copy of Agent Howard's letter be transmitted to the Secretary of War for his information and such action as he may think proper to take in the premises, and I also suggest the propriety of bringing the matter to the attention of the Department of State. A copy of said report is inclosed for that purpose.

I am, etc.,

J. D. C. ATKINS,
*Commissioner.*

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[Inclosure 3 in No. 48.]

*Mr. Howard to Mr. Atkins.*

UNITED STATES INDIAN SERVICE,
PIMA AGENCY, ARIZONA,
*Sacaton, Arizona, April* 16, 1888.

SIR: Living along the border of Sonora, Mexico, are perhaps two thousand Papago Indians under the charge of this agency. It has been their custom for years to cross the line into Sonora at pleasure and unmolested. Those living just this side of the boundary frequently drive their stock across when water on their ranges becomes exhausted. They also cross into Sonora for the purpose of visiting Papago and other Indians living there. On April the 6th six Papago Indians crossed the line for the purpose of attending a "fiesta" given by some of their friends, when they were halted by seven armed Mexicans. They were informed that they were to be arrested by order of the Mexican Government, and were to be shot.

The Indians protested that they had committed no crime, and wanted some explanation as to why they were to be arrested, saying that they were willing to come here and deliver themselves to me if they were charged with committing any depredations or crimes. The Mexicans would not yield nor permit the Indians to return. The leader of the posse dispatched an assistant for re-enforcements, which was soon answered by twenty more armed Mexicans. Upon their arrival they opened fire upon the Indians, killing one horse. The fire was returned by Papagoes, fatally wounding two. A running fire, resulting in no other casualties, was then kept up for several miles, until the Indians escaped. Word was received the following day by the Papagoes that the Mexicans were again arming for a fight, and runners were dispatched by the Indians to the various villages, ordering all to report at once; others came to this agency for advice.

I have advised them all to quietly return to their homes, remaining upon this side of the line. This they have consented to do, and there is no immediate danger of trouble, unless the provocation comes from Mexicans. The status of these Indians should be immediately defined and made clear to them. If the Mexican Government proposes to enforce the law and permit no Indians to enter their territory unless duly registered and duty paid upon their stock, then the Indians should be so advised and some steps taken by our Government to enforce like restrictions. I advised you in December last of a raid made by Sonora Indians or Mexicans, running off sixteen head

of horses. This is only one of the many depredations committed by residents of Sonora against the Papago Indians. There is absolutely no protection on the border for these Indians. When the stock is once safely across the line the thief receives protection, and is at liberty to make another raid.

The Indians advised me that they had stood these outrages long enough, and now and in the future proposed to fight. In this expression they are encouraged by the almost unanimous sentiment of the residents of this portion of the Territory. One prominent newspaper, in commenting upon this trouble, advises the Indians that the "citizens will be with them in any trouble with the Mexicans." You will be able to discern from this that serious complications may arise at any time unless some steps are taken to avoid future difficulties of this kind. I have already advised the Indians against any retaliatory measures, and thus far that advice has been accepted.

The Papagoes are able to put one thousand warriors in the field and would be largely re-enforced by other tribes, as the feeling here among all classes is very bitter against Mexicans. This feeling of hostility reaches every class, and the Indians will be urged forward and aided and encouraged by all. I am unable to state whether the armed Mexicans referred to were regular troops, customs officers, or private citizens. They were not uniformed, but were all armed with new rifles.

I am, etc.,

ELMER A. HOWARD,
*United States Indian Agent.*

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## No. 790.

### *Mr. Bragg to Mr. Bayard.*

No. 48.] LEGATION OF THE UNITED STATES,
*Mexico, May* 30, 1888. (Received June 4.)

SIR: I have the honor to advise you that I have this day transmitted copy of your views in the Cutting case, as set forth in your dispatch No. 42, to Mr. Mariscal, and herewith inclose copy of my note submitting the same.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 48.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, May* 28, 1888.

SIR: I have the honor to advise your excellency that I am in receipt of a note of instruction from the Hon. T. F. Bayard, Secretary of State, in reference to the Cutting contention, and, as I am authorized by the terms of the instruction to do, I take great pleasure in furnishing you a copy* *in extenso*, that your excellency may be authentically advised of the views of the Department of State of my Government in reference to the pending contention.

I embrace this opportunity, etc.

EDWD. S. BRAGG.

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## No. 791.

### *Mr. Bragg to Mr. Bayard.*

No. 54.] LEGATION OF THE UNITED STATES,
*Mexico, May* 30, 1888. (Received June 5.)

SIR: As directed in your No. 48, of 10th instant, I waited upon Mr. Mariscal, and explained to him the condition of affairs on the Sonora

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* For inclosure, see Doc. No. 785, *ante*, p. 1189.

border between the Mexican soldiery and the Papago Indians. He requested me to make it the subject of a dispatch, so that he might more easily make reference of it to the proper parties for investigation; and thereupon I submitted to him a note, and inclose herewith a copy of the same for your information.

Mr. Mariscal fully appreciates the importance of pacific treatment of the Indians, and will aid in effecting a peaceful adjustment of pending danger.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 54.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, May* 29, 1888.

SIR: I have the honor to submit for the consideration of your excellency, as requested by you in your conversation of yesterday, the condition of affairs along the Mexican border in Arizona Territory, which it is apprehended may possibly lead to open hostilities between the Mexicans and the Papago Indians unless some pacificatory measures are taken promptly by the Mexican Government.

The facts as represented are as follows:

"Living on the borders of Sonora, in the Territory of Arizona, are nearly 2,000 Indians of the tribe known as Papagoes, under the charge of an Indian agency of the United States of America, called the Pima Agency.

"For many years it has been the custom of these Indians to cross the line into Sonora at pleasure and unmolested, both for the purposes of watering their stock when necessary and of visiting Papago and other Indians living there. On the 6th of April last six Papago Indians crossed from the agency to Sonora to attend a 'fiesta' given by their friends. They were halted by seven armed Mexicans and told they were arrested by order of the Mexican Government. The Indians protested that they were innocent of crime, and asked explanations, which were refused. The Mexicans sent for re-enforcements, and on their arrival opened fire on the Indians, killing one horse. The fire was returned, and a running fight for several miles followed, when the Indians escaped."

It is quite desirable that there should be no excuse given these Indians, upon either side of the line, for disorder on their part; and I am directed to call your excellency's attention to the matter, that all causes of disturbance may be speedily removed and the cloud of danger pass away.

I renew, etc.,

EDWD. S. BRAGG.

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No. 792.

*Mr. Bragg to Mr. Bayard.*

No. 56.] LEGATION OF THE UNITED STATES,
*Mexico, May* 30, 1888. (Received June 5.)

SIR: Upon receipt of your No. 258, of February 13, 1888, Mr. Connery addressed Mr. Mariscal a note, copy of which is inclosed, calling his attention to the complaint of citizens of El Paso, Texas, concerning the construction of wing-dams on the Mexican side of the river, which threatened injury to property on the American side.

I am in receipt of Mr. Mariscal's reply, of which I forward translation. It will be noted that there is a careful avoidance in the letter to any allusion to what the future effect may be.

I am, etc.,

EDWD. S. BRAGG.

[Inclosure 1 in No. 56.]

*Mr. Connery to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, February* 24, 1888.

SIR: I am instructed by Mr. Bayard to call the attention of your excellency's Government to the complaint formulated by citizens of El Paso, Texas, concerning the construction of wing-dams on the opposite bank of the Rio Grande, which, if prosecuted to completion or permitted to remain, will, it is claimed, seriously damage a portion of the city of El Paso. In order to make the matter even clearer to your excellency, I have the honor to inclose herewith a tracing showing merely the course of the Rio Grande and the position of the wing-dams on the Mexican side.

While my Government has no desire to interfere with any improvements which Mexico may deem essential for the due protection of her shores, it is not believed that anything which threatens serious injury to American property rights will, in the interest of good neighborhood, be persisted in upon proper representations being made. May I venture to ask whether the works under construction are an absolute necessity or whether the object desired could not be accomplished in some other way more consistent with the interests of both countries? I would most respectfully pray your excellency to be favored with an explanation in regard to the wing-dams, and that steps be taken to remedy the evil complained of.

I beg to renew, etc.,

THOMAS B. CONNERY.

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[Inclosure 2 in No. 56.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, May* 22, 1888.

Mr. MINISTER: Immediately upon receipt of the note of February 24 last, from your legation, relative to the complaint formulated by citizens of El Paso, Texas, concerning the construction of wing-dams on the right bank of the Rio Grande, I transmitted the same to the department of public works, requesting information upon the matter.

Under date of the 14th instant the said department forwarded to me the report furnished upon the 4th instant by the chief engineer in charge of the hydraulic works on the river resident at Paso del Norte. That report establishes the fact that the wing-dams referred to by your legation, and the construction of which was for the sole purpose of protecting the right bank of that river against the force of the current, have not, up to the present, caused any damage to the left bank of the same; also that the changes produced upon both river banks were produced prior to the construction of the said wing-dams, and were due alone to the corrosion natural to soft lands.

Hoping that these explanations will satisfy the inquiries of the letter, which I have the honor to answer, and at the same time referring to mine of the 16th instant relative to the national status of the lands lying to the south of the old bed of the Rio Grande, I have, etc.,

IGNO. MARISCAL.

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## No. 793.

*Mr. Bragg to Mr. Bayard.*

No. 58.] LEGATION OF THE UNITED STATES,
*Mexico, May* 31, 1888. (Received June 6.)

SIR: In further sequence to my No. 48 I have the honor to inclose translated note from Mr. Mariscal stating that he has taken under advisement your instructions in the case of A. K. Cutting.

I am, etc.,

EDWD. S. BRAGG.

[Inclosure in No. 58.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, May 29,* 1888.

Mr. MINISTER: I have the honor to acknowledge receipt of your excellency's note of yesterday, with which you were pleased to inclose copy of the instructions touching the case of A. K. Cutting, received from the Hon. Mr. Bayard, under date of the 4th instant.

In reply it gratifies me to advise your excellency that I shall carefully consider the contents of the said instructions, coming as they do from the Government of the United States, and in view of the question therein treated.

I renew, etc.,

IGNO. MARISCAL.

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No. 794.

*Mr. Bragg to Mr. Bayard.*

[Extract.]

No. 64.] LEGATION OF THE UNITED STATES,
*Mexico, June* 5, 1888. (Received June 11.)

SIR: Herewith I have the honor to inclose copy of my note transmitting to Mr. Mariscal copy of the original instructions of the Department in the matter of Baldwin versus Mexico, and also a copy of Mr. Mariscal's note in reply.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure 1 in No. 64.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, June* 2, 1888.

SIR: I have the honor to transmit to your excellency for consideration and action a copy of an official communication from the State Department at Washington concerning the murder of Leon M. Baldwin, and the claim for indemnity based thereon.

I avail, etc.,

EDWD. S. BRAGG.

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[Inclosure 2 in No. 64.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, June* 4, 1888.

Mr. MINISTER: I have the honor to acknowledge receipt of your excellency's esteemed note of the 2d instant, in which you inclose a copy of a communication from the honorable Secretary of State, relative to the murder of the American citizen Leon McLeod Baldwin.

It gratifies me in reply to state that I will proceed to the examination of the instructions from the Department of State, in order to give the due reply.

I embrace this opportunity, etc.,

IGNO. MARISCAL.

No. 795.

*Mr. Bayard to Mr. Bragg.*

No. 64.] DEPARTMENT OF STATE,
*Washington, June* 7, 1888.

SIR: I transmit, for your information, a copy of a dispatch from the consul at Piedras Negras, No. 71, of the 18th ultimo, relative to the imprisonment of B. B. Glasier, an American citizen at that place, charged by the International Huntingdon Railway Company with misappropriating funds, and the arbitrary interruption of an interview between the accused and the consul, Mr. Allen, by Raphael Herara, first local judge; also a copy of a dispatch from the consul-general at Matamoros, No. 496, of the 26th ultimo, commenting in an able and impartial manner upon this case, and the incident reported by Mr. Allen growing out thereof.

As a matter of international law recognized by the United States in its dealings with Mexicans, and by all European Governments in their dealings with foreigners, an alien, when under arrest or imprisonment for crime, is entitled to consult, as to his further detention, with the consul or diplomatic representative of the Government to which he is subject. This principle lies at the basis of international law. That law assumes that the sovereign of each civilized state recognizes aliens sojourning in his territory as retaining the right to appeal for protection to the sovereign of their allegiance. But this right can not be exercised unless such aliens have free intercourse with the local consular or diplomatic representative of that sovereign.

This privilege, moreover, is fully consistent with the Mexican code, as cited and commented upon by Mr. Sutton in his dispatch, to which reference is made.

You are therefore instructed to bring this matter to the notice of the Mexican Government, with an expression of the assurance felt by this Department that that Government will cause the error in this case to be corrected, and will give instructions that in all future cases American consuls or diplomatic representatives, as the case may be, shall have access to American citizens when detained in Mexican prisons for trial, or when preparing for such trial, or when desiring advice as to an appeal to a superior court or to executive clemency.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 64.]

*Mr. Allen to Mr. Rives.*

No. 71.] UNITED STATES CONSULATE,
*Piedras Negras, Mexico, May* 18, 1888.

SIR: On Sunday morn, May 13 instant, I received from B. B. Glasier a communication stating that he had been arrested and was now in jail in this city, and requesting that I should call and have a talk with him. I thereupon called upon the political judge, who seems to enjoy general supervisory functions, and requested that he would issue an order to the authorities of the jail which would enable me to see the prisoner Glasier. This he promised to do. A few moments later, accompanied by the mayor of Piedras Negras, I called on Raphael Herara, first local judge. The prisoner was then brought in and I had not conversed with him to exceed five minutes when Herara informed me that I had no right to converse with the prisoner. I informed him that I had the authority of the political judge. He then ordered the prisoner remove

from the room, which was promptly done. I then retired, and a few moments thereafter Judge Herara issued instructions to the effect that the prisoner Glasier could be seen by any one except the American consul.

During the same afternoon an *ex parte* examination was held, at which the accusers with their counsel and interpreters were present, while the accused was unrepresented by either counsel or interpreter.

Last evening I received a letter from Glasier, and this morning still another, urging upon me that his case should be promptly tried. On the receipt of the third letter from Glasier, I called on the federal judge of this district and explained the case to him fully, and also called his attention to the official discourtesy which Judge Herara had shown me. After a lengthy and somewhat animated discussion, he promised to have the case brought up before him on review, and would advise me of the result of his investigation. The judge also informed me that under Mexican law an alien could not elect to have his cause tried before a federal court. This is to be much regretted, as in the large majority of cases the greed and rapacity of state and local officials prevent the speedy adjudication of cases coming up before their respective courts.

The issuance of such an order as that referred to by Judge Herara is well calculated to impair if not to destroy the usefulness of a consul of the United States on the Mexican frontier.

The charge against Glasier is misappropriating the sum of over $100, said charge being brought by the Mexican International Railroad Company.

In my conversation with the federal judge above referred to, I explicitly told the judge that I appeared only in my official capacity, and all that I asked was that the accused might receive a prompt and impartial trial.

The early determination of the duty of consuls of the United States in Mexico under similar circumstances is much to be desired, and I respectfully, though earnestly, commend the matter to the attention of the Department.

I am, etc.,

W. G. ALLEN.

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[Inclosure 2 in No. 64.]

*Mr. Sutton to Mr. Rives.*

No. 496.] CONSULATE-GENERAL OF UNITED STATES OF AMERICA,
*Matamoros, May* 25, 1888.

SIR: I forward by this mail dispatch No. 71, of the 18th instant, from Consul Allen, of Piedras Negras, as to the case of the American B. B. Glasier, now in jail there, charged by the International Huntingdon Railway Company with misappropriating funds.

Consul Allen entitles his dispatch "official discourtesy" and gives the details of his interview with Glasier in Judge Herara's presence and the abrupt termination thereof by the latter. He also states that the judge gave orders that Glasier could be seen by any one except the American consul.

By Mexican law any person arrested for serious offenses is held "incomunicado" for the first three days, a sort of grand jury indictment period. During this time no person may communicate with the prisoner except by permission of the judge. I presume it was during this preliminary detention period that the trouble occurred. But by Mexican law and the commentaries of their best writers this incommunication is for the express and sole purpose of furthering the ends of justice, and no judge has a right to refuse to allow the prisoner to see or communicate with his friends unless there be suspicion that such a course will tend to defeat the ways of justice. Mexican judges are given large discretion on this point, but they are also held strictly responsible for any abuse of this discretion. Unless Consul Allen or Glasier violated the proprieties there could have been no just cause for breaking up the interview nor for the issuance of such an order as Consul Allen alleges.

All the above is by the laws of Coahuila, under which the prisoner is held. As we have no treaty privileges with Mexico which apply in the present case, I refer you to the foreign code by Aspíroz, the recognized authority on this subject in Mexico.

By article 473 of his compilation foreign consuls may address the judge in any criminal cause in which their countrymen are accused, and they have ample privilege to take such information (subject to the laws and treaties in force) as they may think necessary to establish the truth as well as the origin and foundation of the charges. This, as a matter of course, would imply one or more interviews with the accused.

Unless, therefore, Consul Allen violated the courtesies of the judge's office, which I do not think at all likely, the breaking up of the interview was an arbitrary act, unjust to the prisoner and highly discourteous to Consul Allen.

I beg to request that this action of the judge be notified to the Mexican Government.

It would also be of much benefit to the efficiency and dignity of the consular service here if the Mexican Government would issue instructions based on the laws of the country giving this privilege of communicating with prisoners except when, for a good reason, it was suspected that a consul was aiding to defeat the ends of justice.

Of course any man fit to be a consul is above the suspicion of such action, and the privilege properly used could only be productive of good results. It gives the average American a very strange sensation to be shut up in a Mexican jail, and fifteen minutes' talk with his consul, if only to have the law explained and see that he has food and bedding, is a great calmer of the nerves. I have had many interviews with Americans in the prisons here, and never had my right questioned but once—some years ago. When I read article 473 of the foreign code to him and threatened an appeal by telegraph to Mexico the judge yielded the point.

In fact, I have not usually asked permission, but have gone directly to the jail and, on a polite request, the warden has always produced the prisoner and given us a corner of the room in which to converse.

I am, etc.,

WARNER P. SUTTON.

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## No. 796.

### *Mr. Bragg to Mr. Bayard.*

[Extract.]

No. 75.] LEGATION OF THE UNITED STATES,
*Mexico, June*, 18, 1888. (Received July 6.)

SIR: I had the honor to transmit to you on the 8th day of March last, as an inclosure to my No. 5, copy of my note addressed to Mr. Mariscal, on the 6th of that same month, touching the alleged acquittal, re-arrest, retrial, and conviction of one Henry Brudigam, who claimed to be a citizen of the United States, for homicide.

Herewith I have the honor to inclose the following papers: Copy of a second note from me to Mr. Mariscal, dated 24th March last; text and translation of a note from Mr. Mariscal, dated the previous day but not received till the 26th, and covering transcript of letter from the governor of Chihuahua; note (in Spanish and English) from Mr. Mariscal, of date the 28th of March, and my reply of the following day; my note of May 5 last, inclosing certificate of application for naturalization by Brudigam; and copy and translation of Mr. Mariscal's note of the 16th ultimo, inclosing extracts of testimony in the case, and the finding and sentence of the appellate court.

The point made by Mr. Mariscal that declaration of intention is not sufficient evidence of citizenship to warrant the Mexican Government in recognizing the right of intervention on the part of the United States is a grave question, and I respectfully request full and explicit instructions of the views of the Department thereon.

It seems to me that the declaration of intention, followed by an appeal to the United States for protection, makes a *prima facie* case; and they can only meet it by showing an abandonment by Brudigam of the territory of the United States *sine animo revertendi*. Brudigam was a German by birth. He has not applied to the German Government for protection, as Mr. Mariscal says "he has been informed." The facts are (and I have them from the German legation), Brudigam's partner in business and alleged accomplice in crime, is a German, and applied for German protection. But Brudigam did not apply to the German, but to the American consul. Brudigam's mother in Germany applied for German protection, not he.

It will be seen that every extract of evidence, disjointed and disconnected, that standing by itself, without the context, can cast a shadow upon Brudigam, is carefully compiled; and standing as it does alone, furnishes not a shadow of legal evidence to establish his guilt.

You will notice that the only direct evidence is the declaration of a witness that certain parties told him Brudigam was going to or did take part.

Take the circumstances of the watch in this case, which it is said was taken from Brudigam, and is a strong circumstance used against him. "He stated that he bought it, when he bought it, and how he paid for it; and he took it voluntarily to the officer and gave it to him, telling him it might aid him in search of the murderer, as the murdered man had other watches of the same make, and the robbers took them away, and might offer to sell, and hence a clue could be had, etc." But none of this is in the record.

The record, you will notice, makes another strong point against the prisoners—they failed to prove an *alibi*. They stated where they were and who they were with, and the party named could not remember whether or not he was there at the precise hour named.

Another thing to which I call attention is the *ideo consideratum* clause these judges assign among the facts establishing the guilt of the prisoners "other causal propositions of the Attorney-General."

The original record of the court of first instance nowhere appears. That judge saw these witnesses. He was inquisitor, and knew just how much credit should be given the statements, and he acquitted the prisoner.

This judgment and conviction is from the appellate court, supported by the garbled statements and fearful torturing of evidence that I have referred to, without ever seeing a witness or the parties.

The governor appoints and removes judges at his pleasure and all the subordinate police officials; so that he controls absolutely the life, liberty, and property of all within his State.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure 1 in No. 75.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, March* 24, 1888.

SIR: I have the honor to call your attention to a note of your excellency dated March 7, advising me of your forwarding to the governor of Chihuahua my note requesting information concerning the case of Henry Brudigam, and to which note, as far as this legation is advised, the governor of Chihuahua has not yet replied.

I trust your excellency will excuse me from the charge of impatience when I again call your attention to this matter, as the question involved is quite a grave one, affecting the rights and liberty of an American citizen.

I repeat, etc.,

EDWD. S. BRAGG.

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[Inclosure 2 in No. 75.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, March* 23, 1888.

Mr. MINISTER: As I had the honor to promise your excellency in my note of the 7th instant, relative to the case of the American citizen Henry Brudigam, I have now the

satisfaction to advise your excellency that, under date of the 14th instant, the governor of the State of Chihuahua informs me as follows:

"In reply to your esteemed note of the 7th instant I have the honor to report to you as follows: The foreigner Enrique Brudigam was absolved in the court of first instance, and was illegally set at liberty before that court's sentence could be effected; for the time allowed by law for appeal from determined sentences had not as yet expired, nor had the public prosecutor expressly consented thereto.

"As was natural, Brudigam was re-arrested, and the case was submitted to the supreme court to decide whether a second hearing should be ordered. The first chamber of the supreme court, in conformity with its prerogatives, revoked the decision absolving Brudigam, and convicted Brudigam as the perpetrator of the murder of Domingo Steiner.

"As can be seen at once, there has been no violation of constitutional guaranty, nor of the personal rights of Brudigam, for he has not been tried twice for the same offense. In all nations of the civilized world there exist superior tribunals charged with the modification, revocation, and annulment of the proceedings of lower courts, nor can it be therefore alleged that various trials have been practiced."

I embrace this opportunity, etc.

IGNO. MARISCAL.

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[Inclosure 3 in No. 75.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, March* 28, 1888.

Mr. MINISTER: I have the honor to acknowlege receipt of your excellency's note dated the 24th instant, in which you recall my attention to the case of Henry Brudigam.

Up to the present I have in my correspondence conceded the American nationality of Brudigam. But upon reviewing the papers in this case, on file in this department, I find that this point is at least involved in doubt. It therein appears that he is German by birth; and although he may say that he is a naturalized American, as he has not proved the date nor concurrent circumstances of his naturalization, it does not seem to me that his simple statement should be credited in the matter. I would therefore desire, before all, that your excellency would be pleased to advise me whether it is certain that the party alluded to has been, as he alleges, naturalized.

I renew, etc.,

IGNO. MARISCAL.

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[Inclosure 4 in No. 75.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, March* 29, 1888.

SIR: I have the honor to acknowledge receipt of your excellency's note dated yesterday, in which you make inquiry concerning the nationality of Henry Brudigam, at Chihuahua. I have taken steps to establish that point, and will communicate with your excellency as soon as I receive the data.

I beg, etc.,

EDWD. S. BRAGG.

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[Inclosure 5 in No. 75.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, May* 5, 1888.

SIR: In further reply to your excellency's note, of the 28th of March last, I have now the satisfaction herewith of inclosing a certified copy of the record of declaration of intention by Henry Brudigam to become an American citizen, and would respectfully thank you to advise me of the receipt of same.

I take pleasure in renewing, etc.,

EDW'D S. BRAGG.

[Inclosure 6 in No. 75.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, May* 16, 1888.

Mr. MINISTER: I have the honor to acknowledge receipt of your excellency's esteemed note, dated the 5th of the present month, inclosing the certified copy, referred to, of the declaration of intention made in 1879 by Henry Brudigam to obtain American citizenship.

Your excellency doubtless is aware that such declaration can only be considered as the first step in obtaining the aforesaid citizenship. Therefore, until proof of greater weight is produced, there is at least ground for suspecting that Brudigam, in asserting that he has secured naturalization, has deceived the Government of the United States.

But be that as it may, considerations of courtesy toward the United States Government constrain me, and I have the honor to advise your excellency as follows:

As promised by me on the 7th of March last, I had the satisfaction, under date of the 23d of that same month, to communicate to your excellency the report on this case furnished to this department by the governor of the State of Chihuahua.

It appears from that report that Brudigam was tried on the charge of homicide, perpetrated in the person of the Swiss Domingo Steiner. He was absolved in the first instance. The public prosecutor appealed from this decision within the legal term, and Brudigam was re-arrested. The supreme court of justice in Chihuahua revised the decision of the lower tribunal and revoked it, condemning the prisoner under existing laws.

I have now the honor to inclose for your excellency's information copy of the sentence passed upon Henry Brudigam, on February 11 last, by the first chamber of said supreme court. The perusal of this document suffices to demonstrate that the party in question has been tried in due accordance with the law; that his re-arrest and the decision rendered in second instance by the Chihuahua supreme court were consequent upon the appeal taken by the public prosecutor from the decision of the court of first instance which had absolved the accused and ordered his liberty, and that therefore a new trial for the same offense had not been ordered, as was stated to the United States Government maliciously or in complete ignorance of our laws.

I should repeat that through courtesy I have made the foregoing explanation, and should add that my purpose was to vindicate the Mexican Government once more from unjust charges against its administration of justice. Furthermore, it is impossible for me to admit the American citizenship of Brudigam, as proof thereof is lacking, and having also been informed that the said individual applied likewise to the German Government for protection.

I renew, etc.,

IGNO. MARISCAL.

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[Inclosure 7 in No. 75.—Translation.]

*Record of the supreme court of Chihuahua in the case of Brudigam.*

[Seal, Mexican Republic, supreme court of justice of the State of Chihuahua, first chamber, office of secretary.]

I, Eduardo Montes de Oca, clerk of the first chamber of the supreme court of the State, do certify that, on the second page of the proceedings instituted against Henry Brudigam and accomplices, for homicide and robbery perpetrated in the person of the late Domingo Steiner, the following sentence doth appear:

CHIHUAHUA, *February* 11, 1888.

Proceedings instituted in reference to the murder and robbery on the night of February 9, 1885, of Mr. Domingo Steiner, Swiss by birth, against the following parties accused: Henry Brudigam, Refugio Martinez, Federico Fichen, Juan Garcia, and Santiago Icusa; the first named, fifty-four years of age, unmarried, baker by trade, native of Germany and living in this city; the second, forty-four years of age, butcher by trade, native of Zacatecas and living in this city; the third, twenty-one years of age, unmarried, a baker, a native of Germany and living in Cosihuiriachic; the fourth, thirty-three years of age, married, a carter, native of Guadalajara and now living in this city; and the last, twenty-nine years of age, unmarried, a telegraph operator and pork butcher, native of Spain and living in Mexico.

It appearing, first: On the 10th of the aforesaid February, the policeman, Cárlos Ramos, reported to the second justice of the peace that he found the Swiss jeweler, Domingo Steiner, dead in his house in Calle de Aldama. The judge repaired thither and took note of the sudden death of Steiner, whom he found lifeless, stretched upon the floor, lying in a large pool of blood in one of the rooms of his house, and close to the deceased was a stick shaped like a "macana" (wooden implement or weapon edged with flint), with which it is presumed he was killed, for he had various wounds produced by some weapon designed to effect contusions. One of the wounds was in the forehead, another on the right temple, which had crushed in the skull, and another on the left side of the head which laid the skull bare; the deceased had besides two additional wounds, made evidently with some edged weapon, one of them above the left eye about an inch long, and the other on the right side of the neck directly above the shoulder, one inch in length and slashed downward toward the breast. The judge further took note of the objects found in the house of deceased, and which are invoiced on pages 42 to 46.

It appears, second: The physicians, Miguel Marquez and Luis G. Muñoz, who were appointed to examine the body of the deceased Steiner and locate his injuries, made their expert examination in the Charity Hospital, and their verdict, found on page 53, is as follows: One fracture with the frontal flat and parietal bones badly crushed in; one wound, made evidently with some sharp instrument, in the neck, on the left side; flesh wound in cellular formation, along the jugular vein and carotid artery, and the above wounds had caused the abundant hemorrhage. These wounds result in immediate death.

It appears, third: The civil judge having been advised, then issued the burial certificate of the foreigner, Domingo Steiner, on the 10th day of February, 1885, that is upon the day following the occurrence, as can be seen by the certified copy from that functionary, on page 39.

It appears, fourth: Proofs of Brudigam's guilt are found in the testimony of Angel Terrazas, which testimony, on the seventh page, reads as follows: During the two or three days preceding the murder and on the day of the occurrence itself he noticed, under suspicious circumstances, an American, short of stature, stout-built, with black whiskers, large head, and accompanied by some Mexicans. Ruperto Martinez, on the sixty-sixth page, testified on May 30, 1885, that the watch referred to on page 62, which the mayor found on the prisoner's person, was not seen by the witness, but that the latter did see in the prisoner's possession the chain belonging thereto; that touching the kneading sticks in the bakery when Brudigam went into his work, there were two large and three small ones, all of which yet exist; that concerning the death of a foreigner, Steiner, living in Dipo, witness was asked if he knew who had killed the jeweler, and whether any of the kneading-sticks were missing from the bakery, as everybody was saying that it was Mr. Brudigam who had killed Steiner. The same Martinez, on page 73, states that he saw in the possession of Brudigam and Ficken four watches similar to the one in the court, Brudigam giving two to Ficken, the deponent being ignorant as to where Brudigam obtained them.

It appears, fifth: The accused Brudigam (see page 62) recognized the watch taken from him by the mayor as being one he purchased from Steiner in the sum of $82, which he paid in four installments, once by an order for $60 on Messrs. Macellanus, and on the other occasions under different dates; the payment of the $60 being made on November 27, 1884; that Berstchten, Francisco, and David N. knew of the purchase of the watch, and that on the night of the murder he was in their house with his partner and George, a German; and added Brudigam, without being questioned thereto, that on the same day that Steiner was found dead he (Brudigam) delivered to the chief of police the selfsame watch, stating that he had purchased it from Steiner, and adding that he, the deponent, had five, six, or seven others of the same kind, and that four or five days after he gave all the watches to his companion, Ficken, in exchange for the watch of the chief of police, which was given over to him. Brudigam, on page 74, stated that his partner, Frederick Ficken, knew of the two first payments for the watch, and that he does not know whether Ficken knew of the two last, as he (deponent) does not remember of having told him. On pages 92, 93, and 94 mention is made of two written papers and an envelope, all recognized by Brudigam, which are referred to later on.

Brudigam, in his additional testimony on pages 143 (reverse) and 264 and 269, referring to Cárlos Miramontes and to the kneading-stick, said that it was in this jail that he had made the acquaintance of the said Miramontes when called out of his cell to meet him, but that he had never spoken to him before, nor did he remember ever to have seen him before; and as to the club or kneading-stick, he had never seen it, and did not know it; that he has one hard-wood stick which he has never used and which he showed to Judge Amparán. Being cross-examined (see page 221) concerning the Spaniard José Antonio Mauricio, Brudigam said he did not know him; but, being counseled by the court to state the truth, he admitted that he did know him, and that he lived, so

Ficken, who acted as interpreter, told him, in the Cuartos de Hermosillo, at one time when the Spaniard went to his bakery to arrange for the purchase of some bread for sale in a stand occupied by Leonhard, and that some days after the Spaniard proposed to the deponent that the latter should go into partnership with him, but deponent refused, and since that time he has not seen him; that on the night of February 9th he, the deponent, was not in the jewelry store of Steiner, nor did he speak with him there; for it was twelve or fifteen days since he had been there; that it is not true that on the night of the 8th of February he was in the house of Leguinazabál drinking with some other parties, and that upon Steiner passing on the side-walk he had called out to him that on the following day he was going to buy a watch from him for his sweetheart, and that while such might have occurred it must have been not at night, but between three and four o'clock in the afternoon; he, the deponent, remembering that George Springer then told him that Steiner was just going by with Albert Meyer, and that, just then, as Steiner and Meyer were passing by Leguinazabál's store, and Springer called his attention to them, the deponent went out and after saluting Meyer, said to Steiner, in a joke, that the next day he would buy the little watch from him for his sweetheart.

It appears, sixth: The accused, Santiago Icusa, on pages 199 to 209, referring to Brudigam (see page 201) in answer to the 13th question, said: That on the 7th of February, in a room in Hermosillo's house, he found Antonio Mauricio and Cárlos Miramontes drinking tequila,* and that they told him that they were going that night to kill the Swiss jeweler for the purpose of robbing him, and asked witness to go with them, adding that their companion, the American, had engaged to kill the jeweler with a club prepared already, and which he had wrapped up in an American newspaper; that Icusa at the same time said that he himself could take no active part in the affair; that they then told Icusa not to give them away, and that they would pay him, and that Icusa then promised to say nothing; that on the day of the occurrence, about 10 o'clock in the morning, Mauricio stated that he had consulted with his companion the American, who was acquainted with the jeweler Steiner, and it had been agreed that the blow should be given at the time that Steiner was accustomed to put up his wares; and that when Steiner should turn his back and go towards the safe the American was to strike him from behind with the club, as in effect he did; the first blow from behind, and all the blows falling upon the head; that the proceeds of the robbery were distributed in the house of Miramontes between Mauricio, Miramontes, the American companion, and, he presumed, Ficken also, who was associated with them; that Don Antonio asked the American to blindfold Steiner, but the American replied that Steiner knew him too well, and that he must not let him survive; also that the American assured him that the iron safe was closed with a combination lock, which only he who fastened it could open.

Icusa, in his additional testimony (see page 212) stated: That he did not recall the date when Don Antonio Mauricio became associated with the Germans of the bakery; but Don Antonio had told him that he had requested employment from the Germans now in the jail (whom Icusa recognized as Brudigam and Ficken), to whom he had been introduced by Hermosillo; that he had been twice in the bakery of Henry Brudigam, but was always attended to, not by the whiskered Brudigam, but by the other boy called Ficken. Icusa, on pages 218 to 220, ratified to the mayor in substance his testimony concerning Brudigam, as well as on pages 263 and 267, adding that Cárlos Miramontes, Antonio Mauricio, Henry Brudigam, and Ficken were the four persons who assaulted the house of the jeweler, Steiner, Brudigam and Ficken being Germans, the former (Brudigam) not being an American, as he believes the mayor first believed wrongfully, Brudigam being the direct murderer of the jeweler Steiner; that Icusa, in his cross-examination before Brudigam, reiterated this testimony (see page 272), the latter denying it, and averring that he knew nothing of what Icusa accused him, because he never had crossed words with Antonio Mauricio, whom he only saw twice in his own bakery, where Mauricio went to see the prisoner touching a copartnership, of which he was advised by Ficken.

It appears, seventh: In the confrontation of Brudigam and Ficken (see page 96) the latter made a feeble effort to sustain himself, Brudigam claiming that he became disassociated from Ficken merely because the bakery business was not paying enough for the two; and that it is true that he said to Ficken that he had purchased the watch and chain for $60, as it was a more common one than he now had, though it looked very much like it, which might account for Ficken's mistaking the two; that he did not remember, however, telling Steiner about the exchange made in the chains; as to the strickle which Ficken says he (Brudigam) bought from a party from El Paso, and which he said he bought for 35 cents, Ficken, he claimed, did not see the transaction but was merely told of it by Leonhard; that Ficken left this city on the 18th of March; nor was Ficken certain as to the month in which Brudigam purchased the watch and chain,

* Intoxicant made from the maguey plant.

nor did he know that the latter had been exchanged or that another had been bought in its place. Finally, Ficken stated that he did not know anything about the little box.

It appears, eighth: Albert Meyer, on page 216, stated that on the 7th of February, before Steiner started out to supper, he called in and they were chatting up to the usual time for starting; that shortly before Steiner told deponent that Henry Brudigam had just been there, pretending that he wanted to buy a small gold watch; that Brudigam annoyed him constantly, pretending he wanted to buy something, and never doing so, except on one occasion when he bought a watch; that on the 8th they were returning from supper to Steiner's house, and Brudigam came out of Leguinazabál's place of business, where he was drinking with some other parties, and said to Steiner that on the following day he was going to buy a small watch from him for his sweetheart; that among the watches brought from El Paso there were seven or eight like the one shown him, but that he is not positive that this is really one of them; also that he saw some chains in Steiner's possession like the one shown him.

In the cross-examination Brudigam and Meyer sustained in each other's presence (see page 230) Meyer re-affirmed what Steiner had said to him, Brudigam also insisting on his statements; Meyer reiterating his assertion that on the night of February 8, about 8 o'clock, Brudigam said to Steiner that upon the following day he intended to buy a small gold watch from him for his girl; Brudigam said he did not wish to contradict Mr. Meyer, and that perhaps it was at the hour Meyer said, for he (Brudigam) was then quite drunk.

It appears, ninth: Icusa, in his testimony (see pages 199 to 207), confesses himself guilty of participation in the crime now under consideration, as explained in his additional testimony (pages 207 to 209 and 220), as well as other testimony given at the time of his confrontation with Miguel Morril (pages 228 and 229).

It appears, tenth, that Ficken, in his preliminary testimony, pages 86 (reverse) and 90, and his subsequent declaration (page 146), stated that there were, he believes, five strickles in the possession of himself and Brudigam, three large and two small, and that the watch and chain shown him he recognized as belonging to Brudigam, who told him that he had bought them for $69 from the jeweler Steiner, but was not sure whether in December or January last; that Brudigam showed him (Ficken) the watch and chain the same day that he purchased them and the deponent delivered them to the chief of police on the day Steiner was found dead; that he had seven or eight just like them; that two or three days after having given them to the chief of police he took back the aforesaid watch and chain, by order of Brudigam, and returned to the chief of police his own watch; that he went to the jeweler's twice to repair that same watch shortly after it had been sold; and he is of opinion that his partner did not go to the said jewelry store very often, for he seldom saw him there; that of the five large strickles in the bakery, he received one from Saint Louis, Mo., another was made here by the carpenter Bait (now absent), another was purchased by a party in El Paso, and two other small ones were with the furniture that they bought from Kooski; that on the afternoon and evening preceding the murder he remained indoors in his house, but does not recall with whom, but thinks it was with his partner and Jorge (George) Springer; that Brudigam spo e to him about the murder, but he does not recollect what he said, nor did he see any watches like the one shown him; that this was the only one which he has seen in possession of Brudigam; nor does deponent know aught concerning the little box; that when he separated from Brudigam he did not take stock of the strickles in the bakery, but is certain that they were all there; one of the three shown him being the one made by the carpenter, the other brought from El Paso, and the other from Saint Louis.

In the cross-examination of Ficken before Ruperto Martinez, the latter sustained that he saw in Ficken's possession two watches similar to that in the court, which were given Ficken by Brudigam, and when he took the small box, with sawdust, over there, Ficken was still associated with Brudigam. Ficken (see page 146) being questioned as to whether he was acquainted with Miramontes, replied that he now knows him, having seen him in the jail, but did not remember ever having seen him elsewhere. In the cross-examination (page 225) in the presence of Icusa, the latter said he was acquainted with Ficken, whom he has on three or four occasions taken to the depot in the carriage of Mr. Elecxiri, and added that the murder of Steiner was accomplished by Mauricio, Brudigam, Ficken, and Miramontes; to which Ficken rejoined that he took no part in the transaction. Icusa further stated that the stolen effects were carried away by Mauricio in a blanket, and he was accompanied by Brudigam and Ficken; the latter replying that possibly Icusa knew him (Ficken) but that he (Ficken) did not remember having known him (Icusa). Ficken, in his additional testimony (page 224), stated that it was not Brudigam who killed Steiner, for he was in his house and did not leave it on the night in which the said Steiner was murdered; and, in his additional testimony, on page 268, he added that he did not recognize the kneading stick shown to him, nor were Icusa's statements concerning him (Ficken) at all true.

It appears, eleventh: That Maximo Below affirms, on page 277, that Ficken went

under the name of Fritz in Cosihuiriachic, which Fritz is the diminutive in German of Ficken; and that when he asked Ficken himself what his name was he had an idea that the latter told him his name was Christian Christiansen, but he is not very positive as to the name Christian; that he well remembers being told by Ficken that his name was Christiansen; that he knew him under that name as having written to Francisco Reimers, clerk of the house of Ketelsen & Degetan; and that when thus recognizing Ficken the latter told him that some people called him Ficken and others called him Christiansen. Being interrogated upon this point (see page 279), Ficken replied that he never went under the name Christiansen, although he remembered that when he came to this city, at the summons of the judge, on presenting himself at the store of Messrs. Ketelsen & Degetan, Mr. Reimers twitted him that he had changed his name from Frederick to Christiansen, which he (Ficken) denied, as in his cross-questioning before Maximo Below (see page 280).

It appears, twelfth: In the investigation touching Refugio Martinez, he (pages 111 and 259) declared that one day in March he said to Miramontes that he had been informed by the Spaniard Santiago that the Gringo had been killed; that Miramontes replied that it was true, and Martinez himself (page 129) when confronted with Miramontes, stated that he was told by Juan Garcia that Miramontes had killed Steiner, that Garcia told him so in the Despedida Jardin, Martinez then saying to Garcia that Cárlos Miramontes did wrong in talking publicly, and that all Chihuahua would learn of it; that Garcia (see page 112) ratified his former statement; and in his confrontation with Refugio Martinez (see page 259) Serafin Terrazas (page 109) confirmed the statement of Garcia.

It appears, thirteenth: On page 108 Juan Garcia begins by declaring that he does not know Miramontes, but on the 112th page he himself admits that he knew him, and was also present at a conversation he had with Refugio Martinez, when the latter inquired what persons had killed the American, to which Miramontes answered that in case they denounced him, he (Martinez) should have to appear as a witness, provided he were charged with making away with the American; that a few days later he saw him (Miramontes) in the office of Refugio Martinez, who showed some resentment against Miramontes because the latter had not paid him the hire of a horse; that therefore Martinez said it would be well to denounce him; that the deponent (Garcia) did not comply with his duty of informing the authorities, for fear of doing an injury to Miramontes.

And considering firstly: That, from the deductions of the process and from the statements embodied in factions first, second, and third, it appearing that the fact is established of the violent death and of the robbery of the late Domingo Steiner, as well as the existence of a well-founded criminal act punishable by the law, and subject to criminal process according to the provisions of the one hundred and twenty-first article of the code of penal procedure;

It is considered second, That upon investigation of the charges laid to the presumably guilty parties it appears (under the head of fourth) that the weight of evidence of the witness Angel Terrazas operates against Brudigam, inasmuch as the witness deposes having seen, two days before the occurrence, and on the day itself of the murder of Steiner, an American, short in stature and stout in build, with black whiskers and large head, all of which answer substantially to the description of the accused, Brudigam; that this description is somewhat corroborated by the statement of Ruperto Martinez (see the same fourth heading), who, when speaking to a foreigner at the depot, was asked by the foreigner who had killed the jeweler, and whether any kneading-club was missing, as everybody was saying that Mr. Brudigam was the one who had killed him; that while Martinez denied having seen in Brudigam's possession the watch found upon his person, he (Martinez) did, in his subsequent declaration, say that he saw in the possession of Brudigam and Ficken four watches similar to that found on Brudigam, which circumstance, in view of the fact that Steiner had some such watches in his stores, gives a color of reason and certainty to the statement of Martinez.

It is considered, third, That Brudigam, in his general denial of participation in the crime, and in his effort to prove an *alibi*, by stating that on the night of the commission of the crime he was in his house with Ficken and George Springer, has completely failed, for George Springer declares that at 6 or 7 o'clock on the night of February 9 he (deponent) left his work at the house of Edward William, and does not remember whether or no he was afterwards in Brudigam's bakery; while Ficken declares that from 4 or 6 o'clock he and Ruperto Martinez always start out to deliver bread almost every day, but that on that day he remained indoors, with whom he does not recall, but supposes it to be with his partner and perhaps with Springer, but is not certain.

It is considered, fourth, That to the above is superadded the weighty circumstance of the delivery by Brudigam to the chief of police on the day of the morning on which Steiner was found dead of the watch, which he said he purchased from Steiner, giving at the same time as a reason for the delivery that Steiner had five or six similar watches, thus apparently endeavoring to establish his innocence in the eyes of the officials, but

which action, far from removing suspicion from Brudigam only serves to intensify the proofs of his complicity; for if he had really bought the watch and no investigation as to its place of purchase were instituted by the authorities, this officious action of Brudigam's would imply that Brudigam was a self-accuser of the crime.

It is considered, fifth, That Brudigam has not given a satisfactory explanation to rid himself of the imputations written under the fifth heading, wherefore the said imputations strongly indicate his complicity, and his statement referring to Meyer, who told him that he had a little money on deposit with Steiner, and that there was a spy there (Smith), who went every day to ask him about the murder, is easily explainable in the light of Smith's remark to Ruperto Martinez in the depot.

It is considered, sixth: That while at first Brudigam denied having been in Leguinazabál's place of business on the night of the 8th of February, he afterwards, when confronted with Albert Meyer in cross-examination (see page 230), admitted that what Meyer had said might be true, and that it might have been at the hour stated, for he (Brudigam) was very drunk then.

It is considered, seventh: That while the testimony of Icusa under the sixth heading serves only for the purpose of inquiry, several facts are deduced from his testimony which go to confirm his statement, such as the kneading-club wrapped up in an American newspaper and other correlative circumstances set forth in the said sixth heading, all tending to prove that Brudigam participated in the crime, striking the deceased with the club; that this fact was more and more proved by the presumptive evidence brought forward in the seventh and eighth headings by the different contradictory statements and the untruths uttered by Brudigam, and finally by other causal propositions from the attorney-general.

It is considered, eighth: That the conjunction of presumptive evidence, as detailed, presents demonstrative proof of the guilt of Brudigam; and that the court holds the said proof as being clear and convincing (see article 408 of the Code of Penal Procedure). That the court so regards it, and considering Brudigam guilty, declares him as amenable to the sentence of capital punishment as provided in articles 49, 560, and 561 of the Penal Code, for the crimes of robbery and of deliberate and premeditated homicide, with malice and forethought.

It is considered, ninth: That the confession of Icusa, referred to in part of the ninth heading, bears the character of full proof against the accused Icusa, who had himself delivered it (see article 395 of the Code of Penal Procedure). And that the proof aforesaid constituted him an accomplice in the crime under consideration (article 50, paragraph 4, of the Penal Code) for having consented to the impunity of the offense by virtue of the agreement which preceded that of participating in the stolen effects; that therefore he should be considered as such accomplice; and, in consequence, the penalty of ten years' hard labor should be applied to Icusa. (See article 219 of the Penal Code in connection with the first fraction of the one hundred and ninety-seventh article of the same.)

It is considered, tenth: That as in the case of the accused Icusa there only operate the aggravating circumstances cited in article 45, paragraph 12, and of article 47, paragraphs 1, 4, and 14, for failing to speak the truth, for having admitted retribution, for having had the assistance of other persons, and for having created great alarm in society by a crime where aggravating circumstances all combine and there are none such attenuating; that, therefore, the penalty is subject to increase from the term of ten years, as prescribed in article 35 of the Penal Code, and that the average of ten years should be taken; that, under the stipulations of article 231 of the Penal Code, when solely aggravating circumstances exist, the penalty is augmented from the mean term to the maximum, which is calculated (article 69 of the Penal Code) by adding one-third to the mean or medium period; that, therefore, the penalty of ten years is increased by three years and four months; and the convicted Icusa shall therefore suffer at hard labor for thirteen years and four months.

It is considered, eleventh: That the penalty to be sustained by Icusa, exceeding two years, he should understand that he is to suffer the same, with an addition of one-fourth of time, as specified in articles 71 and 72 of the Penal Code, and that he is entitled to the grace allowed by the seventy-fourth article of the code aforesaid.

It is considered, twelfth: That as regards Frederick Ficken, the reply he made to Icusa, and which is mentioned under the tenth heading, operates strongly against him, for it implies a confession of participation in the crime; that Ficken, when replying to Icusa, upon the latter stating in the cross-examination that he, Ficken, Mauricio, Brudigam, and Miramontes murdered the jeweler, asked Icusa whether he (Icusa) did not participate in the murder; that this reply by Ficken, clearly substantiated as it is, is a confession on his part of participation in the crime, or of being a principal therein; and therefore article 395 of the Code of Penal Procedure is operative against him.

It is considered, thirteenth: That there is another circumstance that weighs against the aforesaid Ficken; that according to Ficken's statement there should have been fi-

kneading-sticks in the bakery—three large and two small—all of which he insisted were complete when he left Brudigam's employ, while the fact is that one of the clubs is missing.

It is considered, fourteenth: That further damaging evidence against Ficken is found in the fact that he delivered, by Brudigam's order, the watch to the chief of police, as well as his statement that he did not know what Brudigam had said to him touching Steiner's death; that something was said to him is reasonably certain, nor is it possible that Ficken should altogether forget what was said to him about an occurrence so atrocious and so well known; nor was it a circumstance of less moment that he should have changed his name at Cosihuiriachic, as is testified by Maximo Below and Francisco Reimers, and admitted even by Ficken himself, who said that some called him Ficken and others Christiansen; and that, finally, he was unable to establish an *alibi* to the effect that on the night of the murder he was in his house; that, therefore, in view of the weight of presumptive evidence (article 408 of the Code of Penal Procedure) and, above all, Ficken's own confession, there is full proof of his guilt as principal in, and abettor of, the crime, and that he is deserving of capital punishment (see articles 49, 560, and 561 of the Penal Code) for the crime of robbery and premeditated homicide with malice and forethought, perpetrated upon the person of the late Domingo Steiner.

It is considered, fifteenth, that, touching Refugio Martinez, he, as is set forth in the twelfth heading, knew, not only through Miramontes, in the month of March, 1885, of the murder and robbery of Steiner, but, even before that time, knew of the occurrence from the Spaniard Santiago, who is none other than Santiago Icusa, *alias* Bustinzar, and was told also by Juan Garcia, to whom, in this connection, Martinez said that Cárlos Miramontes did wrong in talking about it, for thus all Chihuahua would learn of the occurrence; that in view thereof Martinez appears in the rôle of harborer of crime of first class (article 56, paragraph 2), for, being in duty bound not to impede the investigation of the crime and the punishment of the guilty (article 1, paragraph 3 of the penal code), he acted in contravention to this course of justice and is therefore held to undergo the penalty specified in article 220 of said law, as a harborer of crime.

It is considered, sixteenth: That the accused Juan Garcia, being in like category with Martinez, he should be considered also, according to his own confession, as a harborer of crime, and subject to like penalty with Martinez. In view of the foregoing the court doth hereby issue the following findings:

First. The legal decision of the lower tribunal of date October 28 last, is modified in the following tenor:

Second. The penalty of capital punishment, to be executed according to law, is imposed upon the accused Henry Brudigam and Frederick Ficken as principals in the robbery and murder committed on February 9, 1885, on the person of the late Domingo Steiner.

Third. The penalty of thirteen years and four months' imprisonment with hard labor is imposed on the accused Santiago Icusa, *alias* Bustinzar, for complicity in the said crime; the said penalty to commence from the date of his imprisonment, subject to retention and reprieve.

Fourth. The penalty of eleven months of "arresto mayor" (detention for from one to eleven months) is imposed on Refugio Martinez as accessory to the crime in question, in harboring the same, the time of his sentence being computed from the date of his imprisonment; and the said Martinez is to be at once reduced to jail.

Fifth. It appears that Juan Garcia having suffered in excess of the penalty assigned to accessories in crime, he shall be at once set at liberty and his sentence be considered as being fulfilled.

Sixth. The right of civil procedure is left intact, to be employed by whomsoever may use it, against the accused Brudigam, Ficken, and Bustinzar *alias* Icusa, and the prisoners are so advised.

Seventh. The case remains open against the prisoner Antonio Mauricio, as he is still at large.

Eighth. Let this testimony be referred back to the judge of first instance, and copy thereof be taken to send to the governor of the State for its publication. Advise Hon. Miguel Aldaz, magistrate of first instance of the supreme court of justice of the State, passed upon appeal and adjudged and sentenced.

I attest.

MIGUEL ALDAZ. [RUBRIC.]
E. MONTES DE OCA. [RUBRIC.]
*Secretary.*

The above accords with its original, authorized and signed in Chihuahua on February 25, 1888.

E. MONTES DE OCA,
*Secretary.*

No. 797.

*Mr. Bragg to Mr. Bayard.*

No. 85.] LEGATION OF THE UNITED STATES,
*Mexico, July* 2, 1888. (Received July 16.)

SIR: Upon receipt of your No. 64, of 7th ultimo, I directed Mr. Mariscal's attention to the case of B. B. Glasier, imprisoned at Piedras Negras, and herewith beg to inclose copy of my note. I also have the honor to furnish original and translation of Mr. Mariscal's reply, just at hand.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure 1 in No. 85.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, June* 20, 1888.

SIR: I have the honor to advise your excelleney of receipt of dispatches at this legation from the State Department at Washington, instructing me to call the attention of the Government of Mexico to the following facts:

"Mr. W. G. Allen, consul of the United States at Piedras Negras, in Mexico, on the 13th of May, ultimo, received from one B. B. Glasier, a citizen of the United States, a written communication requesting such consul to visit him for information and consultation, stating that he was in confinement at the jail at said town, under charge of the crime of embezzlement of $100 and upwards. Mr. Allen immediately called upon the jefe politico and requested permission to visit the prisoner, which it was then stated would be allowed. Shortly after, the consul, in company with the mayor of Piedras Negras, called on Rafael Herara, first local judge, and the prisoner was brought there. After a very few moments conversation with the prisoner, the conversation was broken off by the judge, with the information to the consul 'that he had no right to converse with the prisoner;' and, upon the reply made by the consul that he had obtained permission from the jefe politico, Judge Herara ordered the prisoner removed from the room, which was done, and very shortly after Judge Herara issued instructions in substance, 'that the prisoner, Glasier, could be seen by any one except the American consul!'

"The same afternoon an *ex parte* examination was had. The accusers, with their counsel and interpreter, were present, but the accused was unrepresented by either counsel or interpreter.

"A few days later (May 17) the consul applied to the federal judge of the district and fully explained the case to him, and called his attention to the official discourtesy shown by Judge Herara above stated. The federal judge, after a lengthy discussion, promised to have the case brought before him on review, and to advise the consul of the result. But he further informed the consul that, under existing Mexican law, an alien charged with crime was not entitled to a trial before a federal court."

It would seem that Judge Herara committed a gross breach of courtesy toward the American consul, and by his order giving all persons communication with the prisoner except the consul intended his action as a studied insult to him.

It would seem that the admission of the accuser with counsel and interpreter to an examination of the prisoner, and rejection of the official representative of the United States under whose protection the prisoner placed himself, was hardly giving the accused the guaranties and protection alluded to in your excellency's note of June 8, instant, in reply to mine asking that certain guaranties be extended to Lola Willis, a prisoner in the state of Vera Cruz.

It would seem also that Judge Herara violates not only the ordinary rules of courtesy, but also the rules of law which are recognized and obtain in Mexico, in the treatment of the consul of the United States, who sought to be informed as to the offense, etc., with which his countryman was tharged. (See Foreign Code as compiled by Aspíroz, article 473.)

My Government feels assured that the conduct of Judge Herara will meet with prompt disapproval by the Government of Mexico, and I am instructed in this connection to ask of your excellency's Government such public announcement, order, or

instruction for the guidance of the judicial officers of the Republic of Mexico as will prevent the recurrence of such disagreeable episodes and secure to American consuls or diplomatic representatives, as the case may be, free access to American citizens when detained in Mexican prisons upon preliminary charges or for trial; and also when they are being examined upon any criminal charge, or when preparing for trial, or when desiring advice as to an appeal to a superior court, or to executive clemency.

I avail, etc.,

EDWD. S. BRAGG.

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[Inclosure 2 in No. 85.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, June* 28, 1888.

Mr. MINISTER: In reply to your excellency's note of the 20th instant, relative to the case of the American citizen, B. B. Glasier, imprisioned at Piedras Negras, I have the honor to inform you that a report thereon has been requested by me from the authorities having cognizance thereof.

I reiterate, etc.,

IGNO. MARISCAL.

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## No. 798.

*Mr. Bayard to Mr. Bragg.*

No. 87.] DEPARTMENT OF STATE,
*Washington, July* 11, 1888.

SIR: At the instance of the Acting Attorney-General, whose letter bears date the 10th instant, the President has to-day issued his warrant authorizing J. E. Van Riper to receive and bring back from Mexico, where they are fugitives from the justice of the United States, Gulie Shields and Isaac Wilson, charged with murder.

A certified copy of the papers in this case and the warrant in question have been transmitted to the Attorney-General for Mr. Van Riper. Meanwhile you are requested to make the necessary application to the Mexican Government so that the ends of justice may not be defeated.

I am, etc.,

T. F. BAYARD.

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## No. 799.

*Mr. Bragg to Mr. Bayard.*

No. 94.] LEGATION OF THE UNITED STATES,
*Mexico, July* 18, 1888. (Received July 30.)

SIR: I have the honor to advise you that on yesterday, by appointment, I called upon President Diaz at the castle of Chapultepec, and tendered him my congratulations upon his re-election in the following terms:

Mr. PRESIDENT: I have called to present to you my congratulations upon your unanimous re-election, and to say in addition that it is an honor well deserved for the stability and financial credit given by you to the Mexican Republic.

Your re-election has been received with very great satisfaction by the people of the United States, as evidenced by the voice of the public press, and although I may not assume to speak officially, I feel assured that the President of the United States and his administration are not among those least gratified.

President Diaz received me with great cordiality, and expressed himself much pleased at the friendship and approval manifested by the United States for his administration in the past, and hoped that in the future he should merit the continuance of such friendship and approval.

To-day is the anniversary of the death of President Juarez. It is one of the greatest commemorative days in Mexico. Processions are marching, and there is gathered a large concourse of people near the cemetery of San Fernando, where he was buried, to listen to eulogies and pay tribute to his memory.

The flag of this legation is at half-mast, and this morning I presented to the committee for decorative purposes a large floral wreath and anchor, having attached ribbons, in American and Mexican colors, inscribed, respectively, in English and Spanish, with the following sentiment:

The children of Washington join in tribute to the memory of the Mexican soldier and patriot statesman, Benito Juarez.

The offering was cordially received and given a prominent place upon the speaker's platform.

These acts of mine, although unofficial, are given you that you may be advised of the current of events here, official and otherwise. Trusting that I have not exceeded what you would desire in these matters,

I am, etc.,

EDWD. S. BRAGG.

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No. 800.

*Mr. Bayard to Mr. Bragg.*

No. 88.] DEPARTMENT OF STATE,
*Washington, July* 19, 1888.

SIR: I herewith transmit for your information copies of two letters from Mr. Henry N. Clement, of San Francisco, of the 9th and 10th instant, in regard to the claim of Mrs. Janet M. Baldwin against Mexico, and the retaking of certain testimony by that Government, which Mr. Clement fears may be prejudical to his client's interests unless rebutted.

Mr. Clement has been advised in reply to his suggestions that Mr. James B. Chess, the consul at Durango, be instructed to take such testimony as he might think best, that the consul has no power to summon witnesses before him, although he might and no doubt would take the depositions of all who appear voluntarily for that purpose.

It was also represented to Mr. Clement that the facts in the case being, moreover, so well-known, it could hardly be affected by the *ex parte* contradictions of former testimony that might now be set up.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 88.]

*Mr. Clement to Mr. Bayard.*

SAN FRANCISCO, CALIFORNIA, *July* 9, 1888.

DEAR SIR: I have just received from Durango, Mexico (and herewith inclose you), official confirmation of the fact of which I wrote you some time since, that the Mexican Government has had retaken the testimony of the head miner, Mapula, who par-

leyed with the assassins of Leon McLeod Baldwin, and have thus given Mapula an opportunity to falsify his former testimony concerning the threats made by the assassins, viz: "We have killed the foreigner, and we are going to finish all the foreigners and their associates." Mapula now says that all his old testimony taken at the inquest was true except the above quoted words. He does not deny that the assassins made a declaration or threat of some kind, in other or similar language; he simply says that all his original testimony was true except that one particular declaration in the manner quoted. He does not say what the assassins did say. His bare denial in the form now made, after his former statement, is therefore a clear negative pregnant; and is, under the rules of pleading, equivalent to an affirmative admission that the assassins did make a statement of a similar character, or in another form.

* * * * * * *

I am informed that abundant testimony can be procured to show that the original evidence given by Mapula is true and that his retraction is false.

I am further informed that much valuable testimony that will materially strengthen our case against Mexico on many points can now be obtained, not only from foreign residents of Ventanas and Durango, but from the native Mexican inhabitants themselves. I am still further informed that an active and aggressive spirit of intimidation now reigns in the vicinity of Ventanas and extends even to the city of Durango, concerning this Baldwin case, which is so pronounced that even our American consular agent, Dr. Chess, has been made to feel that he can not take the testimony of witnesses as to facts favorable to us without an express authorization from the State Department which he can show.

In view of the foregoing facts, I respectfully ask you to authorize and empower Dr. Chess to take, and forward to you, the testimony of such witnesses as may be brought before him in this case, in order that we may anticipate, and be fully prepared to meet and refute, any new state of facts with which we may be confronted by Señor Mariscal in his forthcoming reply to General Bragg.

I make this request in the interest of my client, Mrs. Baldwin, who is now here, as well as on behalf of my Government in its controversy with Mexico.

Faithfully, yours,

HENRY N. CLEMENT.

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[Inclosure 2 in No. 88.]

*Mr. Clement to Mr. Bayard.*

No. 528 CALIFORNIA STREET,
*San Francisco, July* 10, 1888.

DEAR SIR: I herewith inclose you the document which I neglected to inclose in my letter to you of yesterday. Will you kindly permit me to say that I find on rereading my correspondence from Durango, Mexico, that I underestimated and understated the importance of endowing Dr. Chess with power and authority to take and forward testimony in this case. If you will not regard my suggestion as in the least officious, as I do not intend to be, I would really urge that Dr. Chess be instructed to proceed and take such testimony as he may think best.

Very respectfully,

H. N. CLEMENT.

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[Inclosure 3 in No. 88.]

*Copy of testimony retaken in the case of the murder of Leon Baldwin.*

In the mineral district of "Villa Corona" of Ventanas, on the 19th day of August, in the year 1887, I was notified by chief of police to go to certify the assassination perpetrated on the person of the American citizen Leon Baldwin, and, taking necessary steps, the subscribed judge took up these proceedings, which will serve as a heading to the proceedings against the delinquents.

TOMAS A. SOTO.

In continuance, the miner of the mine named "Valenciana," the citizen Eustacio Mapula, being present and having taken the oath, said his name is as above stated, originally of San Dimas, and resident of this district.

Question. What do you know in regard to the assassination perpetrated on the person of the American citizen Leon Baldwin?

He answered that the testimony he has made is the same, excepting the words that

Carlos Martinez and Vicente Becerra had said to him; said words are, "We have killed this foreigner and we are going to finish all the foreigners and their associates."

Question. Why did you not render help to Mr. Baldwin when they were taking him away to kill him, having men in the mine?

He answered, because they had at that moment no weapons to defend themselves with; which is all he knows and has to say in compliance with the oath he has taken, in which he affirms and ratifies, himself subscribing with me and those who assist. I certify:

TOMAS A. SOTO.
EUSTACIO MAPULA.

In continuance, the citizen Peliciano Gonzales, being present and having taken the oath in due form, said his name is as stated, single, of age, orginally of San Dimas, and resident of this district.

Question. What do you know in relation to the assassination perpetrated on the person of the American citizen Leon Baldwin?

He answered that he corroborated in all its parts the testimony given by the miner Eustacio Mapula, who had been a miner in the mine "Valenciana" in the speaker's place, which he affirms and ratifies, not placing his signature on account of not being able to write; the judge with those who assist do it in his name.

TOMAS A. SOTO.

On the same date, the citizen Valentin Sierpe, being present and taking the oath, was asked his name, and other generalities, and said, his name is as stated, single, thirty-two years of age, miner, originally of Baris and resident of this district.

Question. What do you know in relation to the assassination perpetrated on the person of the American citizen, Leon Baldwin? He answered that he corroborated the testimony made by the miner, Eustacio Mapula, in all its parts, which he affirms and ratifies, which is all he has to say in compliance with his oath; he did not sign on account of not being able to write, the judge and those who assist signing in his name.

TOMAS A. SOTO.

VENTANAS, *February* 20, 1888.

Having taken the testimonies, forward them to the interested parties, as requested.

TOMAS A. SOTO.

VENTANAS, *February* 20, 1888.

I, William W. Carroll, being duly sworn, do upon my oath, say that practically the translation hereto attached is correct, and that I am personally acquainted with Tomas A. Soto, the judge signing the evidence or depositions of parties herein given, and to the best of my knowledge and belief the signature of Tomas A. Soto hereto signed is his signature.

W. W. CARROLL.

Subscribed and sworn to before me this 21st day of May, A. D. 1888, at Durango, Mexico.

[SEAL.] JAMES B. CHESS.

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## No. 801.

### *Mr. Bragg to Mr. Bayard.*

No. 97.] LEGATION OF THE UNITED STATES,
*Mexico, July* 23, 1888. (Received July 31.)

SIR: Under your instruction No. 87, of the 11th instant, I have made formal request of Mr. Mariscal to cause orders to be issued (pending application for their extradition) for the arrest of Gulie Shields and Isaac Wilson, charged with murder.

I am, etc.,

EDWD. S. BRAGG.

No. 802.

*Mr. Bragg to Mr. Bayard.*

No. 102.] LEGATION OF THE UNITED STATES,
*Mexico, July* 24, 1888. (Received July 31.)

SIR: Inclosed please find copy and translation of a note to-day received from Mr. Mariscal, in reply to my request for the arrest of Gulie Shields and Isaac Wilson, as made under your instruction No. 87, of the 11th instant, notice of which request was conveyed in my No. 97, of yesterday.

This reply was not unexpected, but I did not call attention to the omission to furnish any data from which an arrest could be made, in my No. 97, lest I might seem to be disposed to be hypercritical.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 102.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, July* 23, 1888.

Mr. MINISTER: By your excellency's note, dated yesterday, I am informed that the President of the United States had authorized Mr. J. E. Van Riper to receive and take back from this Republic to that country the fugitives Shields and Wilson, and that the co-operation of the Mexican authorities is solicited for the arrest of said parties, pending the formal request for their extradition.

As your excellency will understand, it is very likely that, in order to free themselves from the police, these fugitives may have changed their names; and that, therefore, little hope can be had of discovering their whereabouts unless some data concerning them be furnished. As soon as such data is received, orders will be immediately issued for the arrest of Shields and Wilson, in conformity with the wishes of your excellency's Government.

I renew, etc.,

IGNO. MARISCAL.

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No. 803.

*Mr. Bayard to Mr. Bragg.*

No. 92.] DEPARTMENT OF STATE,
*Washington, July* 31, 1888.

SIR: I have received your No. 94, of the 18th instant, and have read with much satisfaction your congratulatory speech to President Diaz on his recent re-election.

I have also observed your gift of a floral piece, suitably inscribed, in honor of the Juarez commemorative services. While it was perfectly proper that you should have manifested your sympathetic regard in an entirely personal way, this does not preclude the Department from expressing its gratification that you did so.

I am, etc.,

T. F. BAYARD.

No. 804.

*Mr. Bayard to Mr. Bragg.*

No. 110.] DEPARTMENT OF STATE,
*Washington, August* 21, 1888.

SIR: I herewith transmit a copy of a letter from the Acting Attorney-General, dated the 20th instant, containing the information desired by Mr. Mariscal to enable his Government to make the preliminary arrest in the case of Shields and Wilson, whose extradition is demanded for murder. They are Seminole negro Indians, and are understood to be on the Seminole Reservation near Santa Rosa, in the State of Coahuila, Mexico.

Adding that a new warrant, as desired by Mr. Jenks, substituting Mr. John T. Rankin for Mr. J. E. Van Riper, as the person to receive and return the fugitives for trial, has been issued.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 110.]

*Mr. Jenks to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, August* 20, 1888.

SIR: Referring to your communication of the 2d instant, transmitting a copy of a dispatch from the United States minister at the City of Mexico, covering a note from the Mexican minister of foreign affairs, asking for data to assist his Government in making the preliminary arrest of Shields and Wilson, whose extradition is sought on a charge of murder, I have the honor to transmit with this the data requested by you with reference to the two fugitives named.

Very respectfully,

G. A. JENKS,
*Acting Attorney-General.*

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[Inclosure 2 in No. 110.]

*Data in the case of Shields and Wilson.*

Gulie Shields and Isaac Wilson, charged with the murder of Modesto Maldonado. Offense committed at Fort Clark, Kinney County, Texas, on or about December 31, 1888.

The defendants are Seminole Negro-Indians, ages about fifteen and sixteen respectively. They left Fort Clark about the time of the murder, crossed the Rio Grande river into Mexico, and went to the Seminole reservation near Santa Rosa in the State of Coahuila. They are not aware of the existence of an indictment against them, and will hardly change their names.

JOHN T. RANKIN,
*United States Marshal.*

SAN ANTONIO, TEXAS,
*August* 14, 1888.

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No. 805.

*Mr. Bayard to Mr. Bragg.*

DEPARTMENT OF STATE,
No. 113.] *Washington, August* 24, 1888.

SIR: I have now to refer to your No. 75, of June 18, 1888, and to my No. 85, of the 11th ultimo, touching the case of Henry Brudigam, convicted of murder, and to say that the Department has received the desired additional information.

According to the statement of Brudigam, made to Consul Heimké, of Chihuahua, and reported in his No. 38, of July 31, 1888, he was born in Gulzow, Mecklenberg, Germany, December 23, 1844, and came to the United States November 30, 1871.

According to the same statement the places where he has resided since then have been Pittsburgh, Pennsylvania, from November 30, 1871, to October, 1873; in Jackson, Louisiana, from November, 1873, to August, 1874; in Saint Louis, Missouri, from September, 1874, to March, 1878; in Maroa, Illinois, from April, 1878, to August of the same year; in Topeka, Kansas, from September, 1878, to December, 1878; in Solomon City, Kansas, from January to about August, 1879; and from about August, 1879, to February, 1880, in Beloit, Mitchell County, Kansas, wherein (in October, 1879) he took out his first citizenship papers signifying his intention to become a citizen of the United States. Leaving Beloit, he took up his residence in Kansas City, Missouri, in March; and from that place went in October or November, 1880, to Winfield, Kansas, where he remained until January, 1881.

He lived in different places in New Mexico from February, 1881, to June, 1882; and in El Paso, Texas, from July, 1882, to July, 1883, when he came to Mexico and accepted a position as cook in the camp of a Mr. Werner, in charge of a construction party of the Mexican Central Railroad. This place he gave up in February, 1884, and came to the city of Chihuahua, where he has resided up to the present time. The consul adds that the occupation of Brudigam, according to his statement, is that of a baker and confectioner, and that his property at Chihuahua at the time of his arrest consisted of his bakery and fixtures, valued at about $500.

The Department is far from receding from the position taken in its personal instructions to its diplomatic representatives abroad, as well as in other documents, that it will claim for persons of foreign birth who are domiciled in the United States, though not naturalized, those rights which the law of nations assigns to domicile. The status of such persons, for instance, and the mode of distribution of their personality after their death, is determinable by the law of their domicile; and rights of this class belonging to them this Department will, on proper occasions, protect. But it must be remembered that domicile is a residence accepted as a permanent abode; and when a foreigner, who is *sui juris*, comes to the United States his declining to avail himself of the privilege of naturalization is a fact which goes far towards negativing the assumption that his domicile is in the United States. It is true that there are exceptions to this rule, such, for instance, as the cases of Quakers and others who have conscientious scruples against taking oaths of allegiance; of single women, who, whatever may be their rights as to naturalization, rarely claim them; and of persons under age who can not be naturalized but must wait until they are of full age, and yet who are left by an alien parent in the United States to take care of themselves; but within the scope of these cases that of Brudigam does not fall.

The evidence now before the Department goes to show that he has taken up a domicile in Mexico, where he has resided continuously for more than five years, and so far as the mere declaration of intention thus left inchoate for nearly nine years is concerned, it goes to strengthen this conclusion that he omitted or declined to perfect his American citizenship when he had the fullest opportunity of doing so.

I must therefore instruct you that Brudigam is not entitled to the interposition of the Department in his behalf.

I am, etc.,

T. F. BAYARD.

No. 806.

*Mr. Bragg to Mr. Bayard.*

No. 122.] LEGATION OF THE UNITED STATES,
*Mexico, August* 28, 1888. (Received September 7.)

SIR: I have just learned unofficially from Mr. Mariscal that inquiry made at the Mexican War Department developed the fact that the so-called soldiers guarding the frontier, and who attacked the Papago Indians on the 6th of April last, were State militia.

Correspondence, he added, had been opened with the governor of Sonora; and the militia would doubtless be held to account for the occurrence.

I am, etc.,

EDWD. S. BRAGG.

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No. 807.

*Mr. Bragg to Mr. Bayard.*

No. 123.] LEGATION OF THE UNITED STATES,
*Mexico, August* 29, 1888. (Received September 7.)

SIR: I have the honor to advise you that, on the 26th instant, I received from Consul-General Sutton a letter of Consular-Agent King, inclosing one from the American citizen, B. C. Work, imprisoned in the State of Tamaulipas, on charge of homicide, copy of which letter and its inclosure are made inclosures herewith.

Upon receipt of such communication I addressed Mr. Mariscal a note, copy whereof is also herewish inclosed, which I trust will meet your approval.

This case will be recalled by reference to my Nos. 10 and 35.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure 1 in No. 123.]

*Mr. King to Mr. Bragg.*

[Extract.]

CIUDAD VICTORIA, TAMAULIPAS, *August* 7, 1888.

SIR: I have the honor to inclose the accompanying letter, which explains itself.

Since Mr. B. C. Work's arrest for defending himself on the highway, I have been in this city and had ample opportunities of finding out, more or less, the true history of the case. The best Mexican citizens in the district where the shooting took place denounce Mr. Work's unjust treatment by the authorities in the strongest language. That a man, for protecting his life, should be tried like a criminal and put to great expense is indeed hard to bear. Moreover, it is generally known that the man killed was a bad character, while Mr. Work is a sober, hard-working man of family; and it is too absurd for one moment to imagine that he would deliberately stop a Mexican on the highway and shoot him without cause.

Mr. Work has been anxious to avoid publicity, and, therefore, did not until now invoke the aid of this consular agency.

I have, etc.,

J. H. T. KING.

[Inclosure 2 in No. 123.]

*Mr. Work to Mr. King.*

CIUDAD VICTORIA, *August* 7, 1888.

SIR: I have the honor to lay before you my distressed condition of my family and self. I have been here a prisoner since the 1st of March for homicide.

On the 29th of February, on the highway from Linares to the San José mines in this State, with funds to pay off monthly pay-roll of miners on mines of A. W. Gifford, W. Segovia, B. C. Work & Co., I was run down by three robbers; returning fire I killed one, the others ran off. I at once gave myself up to the sheriff, claiming protection.

Some time in the night, between 7 and 8 o'clock, the robbers returned to my house near by and set fire to the house, running my wife and daughter into the mountains, which has greatly impaired the health of my wife. I was sent to San Carlos and imprisoned for twenty-five days, then sent here the 1st of March. I have been refused a speedy trial, as was promised in correspondence of 5th of May to the honorable T. F. Bayard by Mr. Mariscal to Mr. Bragg, City of Mexico, May 3.

First I deny the charge of crime. Second, that there is no evidence against me but the evidence of the other two robbers implicated in the attempt to rob me and burn up my wife and daughter. You have seen that they refuse to take evidence in my favor. I request that you will at once place this complaint before the proper authorities, and demand my immediate trial and release.

You are fully posted on the injustice practiced in my case and if there is no justice for me I appeal to you for the protection of my wife and daughter, who have been compelled to leave our interests and are at this time suffering. I submit to you as reference Senator R. Coke, Governor S. Ross, Ex. Gov. John Ireland, T. B. Loyd, Fort Worth, Texas; W. W. Cunningham, 45 and 47 South Front street, Philadelphia.

Hoping that this will meet with your approval,

I am, etc.,

B. C. WORK.

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[Inclosure 3 in No. 123.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, August* 28, 1888.

SIR: I have the honor to recall the attention of your excellency to the case of the American citizen, B. C. Work, who is in prison at Ciudad Victoria, in the State of Tamaulipas, charged with homicide.

The facts in the case as I have ascertained them from unquestionable sources, are these: Mr. Work is a person of high character, not excitable nor quarrelsome, but of a calm, deliberate habit, avoiding rather than seeking controversy or collision. This is the uniform testimony borne in his behalf by the respectable Mexican population where he has resided in the State of Tamaulipas a number of years. He is engaged in mining, being part owner of the San José mines in the State of Tamaulipas, and of the working of which he had charge.

On the 29th day of February last, while *en route* from Linares upon the highway leading to the mines, whither he was going, bearing with him money to pay off the monthly pay-roll of the working force at the mines, he was attacked by three persons with the purpose of robbing him. In repelling the attack he shot one of the would-be robbers, when the other two fled.

Mr. Work gave himself immediately into the custody of the authorities, and claimed their protection. But the same night while he was absent therefrom, in charge of the officers, between the hours of 7 and 8 o'clock in the evening, his house, occupied by his wife and daughter, was fired by some ruffians (presumably the parties who had fled upon the death of their comrade) and burned over their heads with all its contents, while they escaped and made good their safety by secreting themselves in the mountains.

The only evidence against Mr. Work tending to charge him with any act not wholly justifiable, is the statement of the two ruffians who were parties in the attempt to rob, and who unquestionably committed subsequently the arson both of whom, as well as the deceased, are men of notoriously bad character, whose statements would not bear a feather's weight against the statements of Mr. Work in the mind of any respectable citizen where the parties are fully known.

Mr. Work has been in confinement since March 1, ultimo, twenty-five days at San Cárlos, and the remainder of the time at Ciudad Victoria, where he now is. All that he has ever asked is a speedy and an impartial trial; that is all that his Government has ever asked for him.

The last note of your excellency touching this case, under date of May 3, 1888, contained the gratifying assurance from the governor of the State of Tamaulipas as follows:

"The court is endeavoring to expedite the trial, in order that proof may be established touching the degree of culpability of Work, or concerning the weight to be given to the points of defense raised by him. Meanwhile he is in the enjoyment of all the guaranties which the law accords to his person, and he has even been permitted, in as far as is compatible with his character of accused, to attend to his private business."

It is a source of deep regret to me that now, after his confinement six months in a loathsome prison, I find myself compelled to state to your excellency that the assurance contained in the information given by the governor of Tamaulipas has not been in any manner fulfilled, but Mr. Work has been held, and is still held, without trial, and the judge having charge of his case has refused to hear evidence in his behalf.

In fine, your excellency, I am fully convinced that the reasons for this judicial action are not such as you would approve, nor such as would be creditable to the occupants of the bench, could they be made public; and, in addition, I fully believe that there will be no attempt at the fulfillment of the words of promise given you by the governor without mandatory action by the Federal Government of Mexico, which in the name of my Government I have the honor to request, through your excellency's gracious mediation.

I avail myself, etc.,

EDWD. S. BRAGG.

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## No. 808.

### *Mr. Bragg to Mr. Bayard.*

No. 134.] LEGATION OF THE UNITED STATES,
*Mexico, September* 1, 1888. (Received September 10.)

SIR: Following up the unofficial information from Mr. Mariscal, that the soldiers in Sonora who attacked the Papago Indians last April were State militia (see my No. 122, of 28th ultimo), comes a detailed version of the attack, as furnished by Governor Ramon Corral, of Sonora, whereby it is made to appear that the Papagoes were wholly to blame. I forward copy and translation of Mr. Mariscal's note covering the governor's report.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure 1 in No. 134.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, August* 29, 1888.

Mr. MINISTER: Referring to your excellency's note dated the 29th of last May, and relative to an encounter had between Mexicans and Papago Indians on the Sonora frontier, I have the honor to inclose with this note copy of a report thereon received by me from the governor of said State.

I protest to your excellency, etc.,

IGNO. MARISCAL.

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[Inclosure 2 in No. 134.—Translation.]

*Mr. Corral to Mr. Mariscal.*

MEXICAN REPUBLIC,
GOVERNMENT OF THE FREE AND SOVEREIGN STATE OF SONORA,
*Hermosillo, August* 14, 1888.

I have received your superior official note of date the 3d instant, wherein you were pleased to transmit to me the communication sent to you by the minister of the United States of America relative to the apprehension entertained that hostilities might

originate between the Mexicans and the Papago Indians along the frontier of this State, owing to the fact that six persons of the tribe, crossing over from Arizona to Sonora to attend a feast given by their friends, were stated to be unjustly attacked by seven armed Mexicans, who tried to arrest them, which resulted in a conflict, during which the Indians lost one horse and succeeded in saving themselves. In this connection you are pleased to recommend to me that necessary measures may be adopted to prevent a misunderstanding which might occasion an uprising of the Papago tribe.

In due reply I have the honor to advise you that, according to the voluminous and explicit data in possession of the Government, as well as the judicial information raised touching the matter under consideration, the statements supplied to the minister of the United States are wholly inaccurate, probably because they are based upon narratives furnished by the Papagoes themselves.

For the information of your department, will you allow me to furnish you a report of the occurrences made up from the statements on file in this office. For many years past the cattle raisers of the Altar district, on the frontier of this State, have complained concerning the Papago Indians that they devote themselves to cattle stealing, in which they are aided by the desert tracts in that part of the country, as well as by the close proximity of the boundary line of the United States, which enable them to place themselves out of the range of pursuit by a walk of a few leagues over into the American Territory of Arizona with the cattle they steal. This evil was greatly aggravated about the close of last year, for the Papagoes repeated with great frequency their robberies, carrying off the cattle from the Altar ranges to the farms at Quijotoa, Tecolate, and Murrallita, in Arizona.

In view of the repeated complaints of the parties who suffered thereby, and in view of the statements of the prefect of Altar, the Government found itself forced to order the arrest of the thieving Papagoes, and instructions to that effect were furnished to the police inspectors of the different places where the cattle stealers were apt to be seen, the said police officials as a rule belonging to the tribe itself; a circumstance that aided in approaching those Indians whenever it became necessary. Those orders could not be complied with, and, notice having been had that in the Ranchería del Tecolate, in Arizona, and very close to the boundary line, a group of Papagoes was to be found headed by one of their number called the Viejo Gato (Old Cat), who were upon their arms in hostile attitude, and prepared to take the war-path against the towns of Sonorita and El Plomo within our Territory, the prefect of Altar commissioned some persons to go and examine the facts. The aforesaid Viejo Gato, with some fifteen or twenty Indians, was found at the Rancheria (hamlet) of Tecolate armed and decided to attack Sonora, in order to continue their stealing and to defend themselves from all who would try to hinder them.

The thefts continued despite the efforts against the same by the prefect of Altar, who issued ordinances to the rural police suited to the emergency, and the Government ordered that a cavalry squad of six men should be placed on the track of the thieves to capture them and place them at the disposal of the judicial authorities. This was a difficult undertaking, as the Indians are astute, they are well mounted, they are well posted on the country in which they carry on their mischief, they are accustomed to elude pursuit, and as soon as they cross the boundary line they are secure and safe. Therefore, in spite of all the measures adopted, the stealing of the cattle continued, and likewise, becoming bolder through success, the Papagoes even went so far as to make an attack, on February 12 last, near the ranch of La Garrapata, upon some guards of the Sásabe frontier custom-house, whom they probably confounded with the force pursuing them.

The chief of this force, citizen Alonso Córdova, having learned that some of the Indian cattle thieves had gathered at Pozo Verde, went to that place with five men, accompanied by Don Fernando B. Araiza, owner of the ranch of Sásabe, with two of his cowboys. On the 8th day of April, upon nearing the hamlet and when within about 300 varas of the houses, they met two armed Papagoes, who, after insulting the soldiers, fired upon them; the soldiers, finding themselves forced to use their arms, answered the fire and drove back the aggressors to the houses of the hamlet; but there the Indians gathered in greater force, continuing to fire upon the soldiers, one of whom, called Carlos Lopez, they killed, and, after a fight of half an hour Córdova and his companions retreated, keeping up a fire as the Indians followed them, shooting all the while.

When intelligence of this affair reached the office of the secretary of this Government, fearing that there may have been some rashness upon the part of Córdova's force, I ordered an investigation to clear up the facts, and in compliance with orders from my Government the prefect of Altar sent thirty men to Pozo Verde, which force took up some Papagoes there found, and who, in company with the soldiers of Córdova's squad, were escorted to the head town of the district and placed at the disposition of the judge of first instance, who was to make the necessary investigation in order to establish the real facts. This investigation embraced the depositions of In-

dians of that tribe named Espiritu Ortiz, José Cochora, Jesus Melon, Jesus Valdez Jesus Lopez, El Mazatan, José Juan, El Babichi, Tomás, Jesus Payanes, Antonio and José Ignacio, and it is evident, alike from the testimony of these Indians and from the testimony of the soldiers and of the cow-boys of Araiza, that the facts did occur as I have stated.

The investigation further developed that the Papagoes who have stolen stock in the Altar district and carried the same over to American territory are those known as El Viejo Gato (Old Cat), Orejas de Cuchara (Spoon Ears), Pedro Gato (Peter Cat), Diego Gato (Diego Cat), José de Jesus Cochi, Sacramento Cochi, Nacho Napoleon, Pioquinto (Pius the Fifth), and Piernas de Gallinas (Chicken Legs); of which number the six first named were those who had the fight with Córdova's squad. All those Indians took refuge beyond the boundary line, and constantly crossed our frontier upon their raids. As they have committed offenses which admit of their extradition, I have requested the same from the governor of Arizona, under date of the 1st instant; for the capture of these Indians and their consignment to the courts for punishment under the laws would be the only manner of ending the evils resultant from their conduct. To effect this extradition I have sent necessary agents from Altar to solicit the same from the governor of Arizona, whom I have myself addressed, forwarding to him copy of the information secured, and which establishes the guilt of the Papagoes alluded to, and I am awaiting the result.

These are the facts as the Government is advised, and of which there is abundant proof; while advising you thereof, it gratifies me to inform you that, being desirous of avoiding difficulties with the Papago tribes, I had previously made the most urgent recommendations to the authorities of the Altar district, the residence of the Papagoes who live in Sonora, and which is the rendezvous of those in Arizona, to treat the pacific Indians with every consideration, to avoid giving them occasion for complaint, to attend to their demands, and to aid them in preserving their interests secure from the greed and rapine of many who are found in the tribe itself; and I have renewed those recommendations in view of your note hereinbefore referred to.

Liberty and constitution.

RAMON CORRAL.
ENRIQUE MONTEVERDE,
*Chief Clerk.*

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No. 809.

*Mr. Bragg to Mr. Bayard.*

No. 140.] LEGATION OF THE UNITED STATES,
*Mexico, September* 8, 1888. (Received September 14.)

SIR: I have the honor to acknowledge your dispatch No. 113, of date August 24, 1888, relating to the citizenship of Henry Brudigam, under conviction for the crime of murder in the State of Chihuahua, in Mexico, and who had claimed the protection of the Government of the United States.

I have this day addressed Mr. Mariscal a note, advising him of the conclusions arrived at by you in the case, a copy of which I inclose for your approval; and have also advised the vice-consul at Chihuahua of the same, that Brudigam may be advised in time to apply to his home Government, if he shall so elect.

I am, sir, etc.,

EDWD. S. BRAGG.

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[Inclosure in No. 140.]

*Mr. Bragg to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, September* 8, 1888.

SIR: Under date of March 29 last in a note to your excellency, referring to the status of Henry Brudigam, an alleged citizen of the United States, under conviction for the crime of murder in the State of Chihuahua, I had the honor to request sus-

pension of further action in the case, pending advices from my Government, on the question of the citizenship of Brudigam, made in your excellency's note under date of March 28 last.

Under advices now received from my Government touching the citizenship of Brudigam, after a careful investigation of all the facts bearing upon the question, I am instructed to advise your excellency that the question of "non-American citizenship of Brudigam" made by you seems well taken, and that, by reason thereof, no further action will be taken by it in the premises.

That the concession in this case may not in the future lead to any confusion in its application, I have the honor to express to your excellency the views of my Government in this regard.

The conclusion arrived at does not rest upon the fact that Brudigam was foreign born, and had merely declared his intention to become a citizen of the United States, but upon the additional facts that he neglected to carry his intention so declared into effect, although ample time and opportunity for doing so intervened, of which he neglected to avail himself; but, on the contrary, abandoned the United States and established his domicile in Mexico, where he was domiciled at the date of the commission of the alleged offense.

And while I thus express the views of my Government upon the facts in the special case, I am instructed to advise your excellency that it in no wise recedes from its long-settled rule, *i. e.*, "to claim for persons of foreign birth in the United States, though not naturalized, those rights which the law of nations assigns to domicile."

I avail, etc.,

EDWD. S. BRAGG.

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## No. 810.

### *Mr. Bayard to Mr. Bragg.*

No. 123.] DEPARTMENT OF STATE,
*Washington, September* 12, 1888.

SIR: Your dispatch No. 123, of the 29th ultimo, in relation to the case of B. C. Work, an American citizen imprisoned in the State of Tamaulipas on the charge of homicide, has been received.

Your presentation to Señor Mariscal of the facts in the case, as calling for a prompt and just disposal of the charge brought against Mr. Work, meets with the Department's approval.

The Department does not, however, undertake to express an opinion touching the reasons or motives, other than those disclosed by the statement of facts, which might influence the action of the judicial authorities in this case.

It is trusted that the speedy termination of the incident will bear out the assurances conveyed to you by Señor Mariscal in his note of May 3, 1888.

I am, etc., T. F. BAYARD.

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## No. 811.

### *Mr. Bragg to Mr. Bayard.*

No. 141.] LEGATION OF THE UNITED STATES,
*Mexico, September* 14, 1888. (Received September 21.)

SIR: I have the honor to inclose note from Mr. Mariscal, with translation, advising that the governor of Coahuila has been requested to arrest the criminals Shields and Wilson and hold them for extradition.

I have wired John I. Rankin, the arresting officer, to save time, as the prisoners can only be held seventy-two hours.

I am, etc.,

EDWD. S. BRAGG.

[Inclosure in No. 141.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, September* 13, 1888.

Mr. MINISTER: I have the honor to answer your excellency's note of the 1st instant relative to the extradition of Gulie Shields and Isaac Wilson, advising you that I have requested the governor of the State of Coahuila to secure the arrest of said parties, in order to deliver them, when requisition is made for them, in accordance with the extradition treaty.

I renew, etc.,

IGNO. MARISCAL.

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## No. 812.

*Mr. Bragg to Mr. Bayard.*

No. 144.] LEGATION OF THE UNITED STATES,
*Mexico, September* 19, 1888. (Received September 26.)

SIR: I have the honor to transmit herewith copies in English and Spanish of the President's message delivered to Congress on the night of the 16th instant.

I am, etc.,

EDWARD S. BRAGG.

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[Inclosure in No. 144.—Extract from *Diario Oficial* of September 18, 1888.—Translation.]

*Address delivered by the President of the Republic upon the opening of the first period of sessions of the Fourteenth Congress of the Union, September* 16, 1888.

[Extract.]

Messrs. DEPUTIES, Messrs. SENATORS:

I feel high satisfaction upon meeting here the representatives of the people, now that the period of four years, for which the public sense, expressed in the elections, placed me in charge of the executive, is about to terminate.

Happily, throughout all the Mexican territory, tranquillity and good order reign, nor have they once been interrupted during the past four years; and in consequence of the confidence which the situation inspires, all elements of prosperity at the command of the Republic are being developed.

Our foreign relations still sustain the characteristics of friendship and harmony which have marked them during recent times.

In view of the complications arising from the passage over the boundary line of cattle seeking pasture on either side, instructions were furnished to our minister at Washington to negotiate a treaty convention which should obviate the troubles incident to the stock-raisers. The said convention was signed on July 11 last, and will now be submitted to the Senate for approval.

The officers who crossed over into American territory for the purpose of arresting a deserter, after due trial by the military court at Piedras Negras, have been sentenced to a requisite penalty.

The Congress of the United States has again taken up for consideration the matter of the fraudulent claims of Weil and La Abra. As the United States Senate, some time since, rejected the treaty concluded for the revision of those like claims, it is to be hoped that the houses of the American Congress will devise some means for preventing the final triumph of the fraud committed by the claimants.

During the close of last July the same Congress approved a bill authorizing the expenditure of $100,000 by an American Commission which, in connection with ours, should relocate the boundary line and replace the injured boundary monuments; but, considering the said sum insufficient, the Chief Executive of that nation has requested authorization for the expenditure of $200,000 which as yet is not known to be conceded.

The death sentence pronounced against Arvizú and Gutierrez, the promoters of the Nogales disorders, was commuted to twenty years' confinement. It was in their behalf that the President of the United States interposed his good offices, soliciting amelioration of their penalty.

Some Indians having escaped from the San Carlos Reservation, it is feared that they will commit depredations in our frontier States of Chihuahua and Sonora, and adequate measures are to be taken for the protection of those said States.

The governor of Arizona (in the United States) having had occasion to deliver over two American criminals, by way of extradition, to the governor of Sonora, the latter, in turn, delivered two Mexican criminals over to the former. The possible increase of leading crimes which have sprung up along the frontier, at points where the two countries are in close contact, and where by a few steps a criminal may cross over into his own territory and thus perhaps save himself, and also occurrences like the one I have mentioned, constrain me to recommend anew to the Senate the suggestion made in my message of September, 1887, that it revise the extradition treaty with the United States, in accord with amendments approved long since by the American Senate, empowering in a special manner, and in extraordinary cases, the Presidents of each Republic to effect the extradition of their own co-citizens.

The Senate gave its approval to the treaty-convention made with a special envoy from Guatemala for the adjustment, on an impartial basis, of the mutual claims of both countries, but it is now ascertained that the legislative assembly of said nation, upon revising the terms of the convention, has introduced substantial modifications, which it would be impossible to accept; especially if the prominent antecedents of that convention are taken into consideration, as well as the other international matters with which it stands related.

A treaty of commercial reciprocity with that country had also been framed, and had been submitted to the Senate; but, upon the request of the Guatemala Government, it was agreed to waive for the present its ratification, in order to agree upon some method for making the treaty satisfactory to both nations.

Difficulties have arisen between the boundary commissions of Guatemala in the survey of the boundary line and Department of Petén. These gave occasion to a note from the minister of foreign affairs of that Republic to our legation, protesting against the operations of the Mexican engineers. Our department of foreign affairs is engaged in the study of the report thereon furnished by the department of public works, with the attention due thereto, in order to dictate whatever measures may be adjudged needful and just.

On the 10th of last July our minister at Washington signed with the representative of Ecuador, recently elected as President of that sister Republic, a treaty of friendship, commerce, and navigation. The treaty I refer to will soon be submitted to the Senate for its approval.

Our consul-general at Paris, the engineer Don Francisco Diaz Covarrubias, is to be present as Mexican delegate at the International Geodetic Assembly to meet soon at Salzburg, and to which our Government was officially invited.

The executive has approved of the project of agreement and rules signed by our representative at the International Conference in Brussels, which, as I have already informed Congress, was convened for the purpose of translating and publishing all customs, codes, and tariffs extant.

The Mexican Government has been invited, in expressive terms, by the Government of Spain to take immediate participation in the preparations commenced in that Kingdom for the celebration, in 1892, of the fourth centennial of the discovery of America. The friendly invitation having been accepted, our minister residing in Madrid has been appointed special representative on that occasion.

A treaty for the exchange of mail packages reciprocally, similar to the one recently negotiated and now in force with the United States, is about to be concluded with the minister of Her Britannic Majesty by the commissioner of the department of foreign affairs.

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The elections to fill the Federal appointments were conducted in the shadow of peace and quiet throughout the country. No question of politics nor of local character has, during the recess of the Chambers, disturbed public order and the harmony which subsists between the Government of the Federation and of the States. This favorable condition of affairs has enabled all to devote attention to public improvements, to administrative matters, to the progress of education, and to impart to public safety that increasing stability which should and does so strongly co-operate in the elevation of the reputation of the Mexican nation. This important end is aided by the constant vigilance of the police of the several States, assisted by the rural guards, whose detachments, distributed in the Federal district and the territories as well as throughout the States of Mexico, Hidalgo, Puebla, Tlaxcala, and Guerrero, also in Oaxaca, Guanajuato, Michoacán, and Querétaro, constantly pass over the highways and are stationed at convenient points; all of which tends to the prevention of crime,

and inspires confidence among the various companies and laboring classes. The organization of the rural corps and the rules set by some of their fixed garrisons are being bettered each day, and new improvements are now under consideration, due notice whereof will be given to Congress.

The condition of the district mounted guards has also been improved, their personnel has been increased, and also the amounts designed to the payment of the same under the budget of expenditures. The nature of the service rendered by the mounted guards who are obliged, even though living within the limits of the Federal district, to change their residence constantly, made it very difficult for them to attend to the education of their children. This difficulty has been set aside by the recent opening of a special school in which the children of those guards receive not only instruction, but clothing and food as well.

The inhabitants of the country are as much interested in the sanitary condition thereof as in its security. In this line the efforts of the local authorities are seconded by the Federal Executive, in the bettering of the sanitary conditions of all the territory of the Union, to obviate thus an attack by epidemics. Fortunately, the diminishing of Asiatic cholera, alike in Italy and in Chili, during the past year, presage its disappearance soon from Europe and America. Fortunately, also, a long time has elapsed since any alarming epidemic has appeared in the Republic.

In the Federal district, where matters of public sanitation are more directly at the charge of the executive of the union, improvement is being constantly made on the prosecution of the drainage works, so important, and the prompt dispatch of which will be secured through a contract just made for the speedy termination of part of the labors. To these labors are added other partial works undertaken by the board of health and the city councils under the auspices and inspection of the political authorities and of the department therewith encharged.

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The postal service is improving as much as possible. Nothing can give a better idea of its progress than the following data touching its operations: The proceeds of the service during the fiscal year closing June 30 last, were in excess of the previous year $53,756, and the pleasing result was obtained, viz, that the income during that period, as was hoped, not only equalled that of 1883, the last year when the high postal tariff was in force, but even exceeded by $36,414 the net income of that year.

Naturally the cause for the increase in the proceeds was found in the increase of postal matter handled; while 24,000,000 pieces were handled in the fiscal year 1886–'87, the movement during the year closing in June last exceeded 29,000,000 pieces.

The item of foreign correspondence alone has assumed such increased proportions that it has become necessary to open new departments in order to re-enforce the number of employés in various exchange offices in the Federal district as well as on the northern frontier. Evidently the great reduction of time in communication with the United States and Europe which is to be soon furnished us by the National Railroad, will make this progress even more palpable.

Throughout the whole country greater activity is observable in matters of communication. Places that were scarcely known by name, to-day enjoy mail facilities which place them in possession of culture by means of the transmission of books and papers, co-operating, as they do, likewise to the development of social intercourse and to the interchange of business transactions. To obtain this result it was necessary to open new offices, which included thirty local post-offices and fifty-eight agencies. To utilize the same new postal routes had to be opened up and the number of weekly trips increased.

The late treaty made with the United States for the exchange of parcels through the mails took effect on the 1st of August last. Notwithstanding the short time that this important service has been in operation the number of parcels exchanged has been very large, and it is to be hoped that the packages sent from Mexico will steadily increase in number as our few national industries and our many natural products become better known abroad.

For the continuation of the service carried on between San Francisco, California, and some Pacific ports of Mexico by the steamer *Newbern*, and in order to connect the said service with that rendered by the steamer *Alexander*, a contract has been entered into with the concessionaire of this latter line for the establishment of a steamer service, which, under the Mexican flag, shall ply between the principal ports of the two lines mentioned.

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The National Monte de Piedad (pawn office) has struggled with the difficulties consequent upon the crisis through which it passed four years since, and now can, due to the efforts made in its behalf, continue its operations and strengthen its credit. The Executive insists upon the new combinations suggested in his preceding message and hopes to see the same soon realized, certain that they will greatly aid in the usefulness of the establishment.

In accordance with the authorization given by Congress for the total or partial modification of the code of commerce, the Executive hastened to issue the law on anonymous firms for the purpose of thus fomenting the creation of like institutions which have such decided influence upon the development of the industrial and mercantile interests of the country. The commission appointed to study the general plan of amendments to the said code is concluding its interesting labors, and will soon issue the new code of commerce.

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No effort has been spared tending to foster and propagate public education as the most efficient method of assuring in future the practice of democratic institutions and peace and prosperity throughout the Republic. In this connection various measures have been inaugurated by the department (of justice and public instruction) for the opening of primary schools in the northern district of Lower California, which, because of its geographical position and on account of its natural elements, claims the especial attention of the Government. Some notable improvements have been introduced in the normal school of teachers, suggested by the late trip made to the United States by the director. The demands of modern scholarship have been gradually met in the other national schools, and in order to stimulate private enterprise in the interests of education, due assistance has been tendered to a night school for working girls.

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The progress made in the principal departments dependent upon the department of public works since my last message has been indeed noteworthy. With regard to railroads, despite the fact that rains have been copious in the greater part of the country, it can be stated that works of survey and construction have been begun on some lines, while on others such work has continued with little or no interruption.

On the 21st of last May the Central Railroad Company opened up to traffic the important line from Irapuato to Guadalajara, 259 kilometers in length. On the Tampico-San Luis branch the iron has reached kilometer No. 188, on the bank of the Gallinas River, over which it is proposed to throw a bridge for the tracks. The road-bed of the same has been prepared as far as 232 kilometer. On the line from Aguas Calientes to San Luis Potosi, the locomotive on the 9th instant arrived at Salinas del Peñon, some 110 kilometers from Aguas Calientes and about half the distance from San Luis Potosi.

The Mexican National Company has worked with great activity to complete the branch from Saltillo to San Miguel de Allende, in length 565 kilometers. At the close of this month the Northern line reached the city of San Luis, while the road is to be connected soon at the Boquillas viaduct, for it is to be opened for traffic in November. The conclusion of this great line, which is to unite cities of importance, will give a third road of steel to link the City of Mexico to the frontier of the United States.

The Hidalgo Railroad Company has finished 5 kilometers on the line from Tepa to Tulancingo, as well as 39 to unite San Agustin and Teoloyucan, thus making another line to connect Pachuca with this capital, as well as with the Central and National Railroads.

Regarding the Interoceanic Railroad Company, formed by the fusion of various companies, it can be said that 20 kilometers have been terminated on the road from Yantepec to Amacusac and 30 more on the section between Mazapa and San Martin Texmelucan. It is to be presumed that by the aid of the financial combinations recently effected in London this railroad will give great impulse to their labors.

The companies in Yucatan are likewise engaged in construction. The Mérida-Calkini branch has delivered 6 kilometers, and the Mérida Valladolid, 7.

The total extent of railroads in the Republic reaches now 7,500 kilometers.

The telegraph system has been gradually enlarged with the construction of new lines, which have connected important towns of various States and various frontier points, while the system of general ways of communication has always been followed. Without stopping to particularize the details of progress as obtaining along those lines and many of which details have been perfected, it is sufficient to state that the total extent of wires strung since last April up to date reaches 950 kilometers. Aside from construction work on the aforesaid lines, repairs and improvements have been made on the 18,000 kilometers which comprise the Federal telegraph system. The good condition of the system is well known for communication by wire has been constantly maintained in the country despite the accidents caused by the abundant rains of last June, during which time and even while the most severe damages befel the Bajío district, the Federal telegraph system alone remained unhurt, and rendered during those times of calamity marked services to the authorities and to the public.

Work on the Vera Cruz Harbor has kept up incessantly. The Construction Company having received the blocks of Chalán-porta has sunk a great number of them along the entire length of the northeast breakwater. It is to be believed that by the activity displayed in the work, and the experience therein attained, that each day

better results will be obtained in the work and more progress made, so that very shortly, and within the contract term, the work will be concluded.

The towns of Matamoros and Paso del Norte were seriously threatened by the waters of the Rio Bravo, which, year by year, destroyed the banks on which they are located. In order to remedy the evil the Government undertook, in their immediate vicinity, some works of defense. While the works are not concluded they are beginning to give the best of results. At Matamoros five wing-dams of a total length of 646 meters have been constructed. These works defend the northeastern part of the city, as well as some 800 meters of the river bank, a portion of land which lay within the threatened tract, being almost below the level of the high water. Four wing-dams have been finished at Paso del Norte, and the fifth is well under way.

Mining matters are being fully developed. While from April to date there have been only 425 denouncements of mines and 8 denouncements of reduction works, a lower record than hitherto, it should be noted that during the same period 682 mines and 33 reduction works have been brought into operation. On the other hand, the good effects which the law of June 6 last are producing may have operated to diminish the denouncement of mines, while they increased the number of contracts made with the Executive for the development of the mineral zones in accordance with the law cited; during this time fifty-seven contracts were made and others are pending. Including the contracts already concluded, since the promulgation of the said law, it is assured that capital, at least to the extent of $30,000,000 has been invested in mining industries.

The recent development of that industry has resulted in the creation of new mining deputations. Seven such deputations have been established lately at points where the necessity for same is plainly evident.

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The general bureau of statistics, formed under the law of May 26, 1882, has collected up to date some important data to compile the respective charts which are now being included among the publications of the department. Prominent among these statistics are those on the criminal classes, embracing a period from 1871 to 1885, which gives satisfactory indications of the decrease, noteworthy and gradual, of crime in this our country.

The work of reorganization in the public treasury is continued; but, like every administrative reform of importance, it requires the lapse of time to reach a satisfactory conclusion. Yet it can be said that, while the financial situation is not altogether prosperous, there are good grounds for belief that it will improve, for now the Republic shows in extraordinary degree a development of the elements of public wealth.

Owing to the increase in national revenue, the treasury has been enabled to comply easily with the obligations provided for in the estimates of expenditures. Due is this to increase in value of property, to the development of commerce, and to the increased exportation of Mexican products, as well as to the favorable condition of our credit, which was never quoted higher than at the present time.

Construction on the new custom-house at Santiago Tlaltelolco being terminated, the dispatching of freight coming to this capital on the railroads has been concentrated there, to the benefit of commerce and of the fiscal interests, and it became necessary to re-organize the service of the custom-house in order to meet the new exigencies thereof.

The stamp revenue had been hitherto collected through the payment of commission of so much per cent. on the amounts collected. But as the executive was desirous of introducing greater economy in the collection, he decreed a new tariff of rates of commission, which has taken effect in this present fiscal year. Experience will demonstrate whether the commissions allotted are fair recompense for the labors and responsibilities of the functionaries of this service and adequate to the public service.

Business circles and the poorer classes alike met with serious difficulties in the simultaneous circulation of coins of the decimal and the old systems. The Government could not remain indifferent to these evils, and it therefore made a contract with the Mexican National Bank for the redemption of the old coinage, to be all called in, in order that the coinage current should be issued according to the decimal system, and that within the term fixed by Congress in its law of June 4 last the legal circulation of money of the old coin should cease. This contract is being complied with throughout all the Republic.

In virtue of the law of the 30th of last June two of the banks provided for by legislation in Chihuahua were established, a contract to that effect having been made with the respective companies. The arrangement made limited the issue and circulation of bank-notes, while the interests of the public are guarantied by the opening of a reserve fund and by the appointment of a functionary who, in the name of the Government, may inspect the operations of those banks. Thus they were brought into subjection to our banking laws.

The Department has made a contract whereby the Mortgage Bank will widen the

sphere of its action, increasing its capital stock in order to devote itself to new operations designed to develop wealth. Institutions of credit being one of the most efficient methods of attaining such favorable results, the Government will engage to aid this movement, provided there is no conflict with the laws or with arrangements effected with other companies.

The operations of the liquidation and conversion of the interior debt continue to develop regularly. With reference to the foreign debt, the Government is complying with the contract of the loan made in Berlin on March 24 last, whereby the old London debt is being converted at 40 per cent. into the new consolidated 6 per cents. The loaning firm has taken advantage of the right of option which it had reserved for £2,100,000. This sum, added to the cash payment made, shows that the loan is realized in almost two-thirds of its value. There are good grounds for believing that very shortly the contract will be wholly complied with, as decreed by Congress on May 29 of the current year.

During the last fiscal year the exportation of national products reached the sum of $48,745,560. A comparison thereof with the exports of the preceding year shows that while there was a decrease in the exportation of coin and precious metals amounting to $2,260,512, there was an approximate increase in other articles; all of which, taking into account the depreciation of silver, is advantageous to the country, which has paid with merchandise a greater proportion of its imports than during the preceding year.

The revenue is increasing. During the last fiscal year closing June 30 the cash collections aggregated $32,508,564. It has been practicable, therefore, to meet punctually the several branches of public service, as well as to pay off the cost of public improvements and other pecuniary obligations resting upon the Treasury.

The floating debt, with interest, has been redeemed, the treasury liquidating and settling the respective accounts. Also the pending accounts with the national bank have been settled up to June 30 last, while a new contract for the account current to be opened in conformity with the charter franchise has been made with the said institution.

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The status of the public consolidated debt up to June 30 was as follows:

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| Bonds issued of the interior debt | $16,052,000 |
| Bonds issued of the foreign debt | 22,252,250 |

In virtue of the loan of the bonds of the issues of 1851 and 1886, £4,462,500 have been converted at 40 per cent. When realized the foreign debt will drop to the figure in gold of $52,500,000.

Meanwhile payment is being strictly made of the interest alike on the bonds of the interior debt and the foreign debt, as well as upon the loan bonds. The amount to meet the coupons on the latter falling due in October is already placed in London, through the national bank.

The bonds of the interior debt are quoted in Mexico at 33 per cent., and certificates (held by employés for arrearages of salary), without interest, at 35 per cent.

The old bonds of 1851, which have not as yet been converted, are quoted in London at 38 per cent., while those of the new loan, negotiated at Berlin, are at 92½ per cent., thus evidencing that our credit has reached a point never touched since the days of independence.

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## No. 813.

### *Mr. Bragg to Mr. Bayard.*

No. 163.] LEGATION OF THE UNITED STATES,
*Mexico, October* 15, 1888. (Received October 23.)

SIR: Supplemental to my No. 123, dated August 29 last, inclosing copy of my note to Mr. Mariscal in the matter of B. C. Work, imprisoned, as alleged, at Ciudad Victoria, in the state of Tamaulipas, which note, in response to case made in the report of Consular Agent J. H. T. King, was made an inclosure in my No. 123, I have now the honor to inclose you, in Spanish and English, note received from Mr. Mariscal, with statement, under oath, of Work before the court.

From the present showing the former statements seem to be highly varnished fabrications. I trust that the last version is the true one.

I am, etc.,

EDWD. S. BRAGG.

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[Inclosure 1 in No. 163.—Translation.]

*Mr. Mariscal to Mr. Bragg.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, October* 11, 1888.

Mr. MINISTER: Referring to my note of the 31st of last August, relative to the proceedings at Ciudad Victoria against B. C. Work, charged with homicide, I have the honor of advising your excellency that I have received a communication from the governor of the State of Tamaulipas, dated the 2d instant, covering a report from the judge of first instance of the first judicial district of that State, which reads as follows:

"The trial of Mr. Work was begun on the 1st of March last, at San Carlos, and the proceedings are in a state pending final and definite sentence. The slight delay in the trial of the case does not, it appears, result from the slow and protracted course of action of the local authorities, but from the non-appearance of the accused at San Carlos. During all this time Work has visited different places, and that personal absence interfered with the discharge of certain proceedings which, without his presence or that of his representative, could not be carried out.

"Since the 11th of April he has been in complete liberty, attending to his business affairs without any further restrictions than the furnishing of bail to appear in court whenever summoned, for the purpose of replying to personal queries, which has occurred on several occasions, after which he has gone wherever he pleased. During the time preceding the said date he remained but a short time in prison, as can be seen from his own testimony. The burning up of his house, with all its contents, as well as the other acts of violence perpetrated, so it is alleged, against his family, which fled to the mountain, did not occur, as can be próven by his own declaration.

"Mr. Work has been tried according to the laws, and he has always been heard in strict justice whenever he applied to the court in the exercise of his rights, and never has there been any refusal to attend to any complaint he might formulate. He is at present living with his family in this city, in full possession of personal freedom, and engaged in mining work, having settled here of his own free will, and not because the court had placed upon him any obligation to live in the said city. To him, as to all accused, are furnished means of defense, which means, by and with the advice of his attorneys, he now employs. I think this report will be sufficient answer to the inquiries instituted by the governor for the information needed."

While placing the foregoing data at the disposition of your excellency, it gratifies me to inclose herewith copy of the testimony furnished by Work in that court under date of September 14 last.

I renew, etc.,

IGNO MARISCAL.

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[Inclosure 2 in No. 163.—Translation.]

*Testimony of B. C. Work.*

[Court of first instance, of first judicial district of the State of Tamaulipas, Victoria.]

On the 14th of the same month (September 18, 1888), the accused, Robert C. Work, being present for the purpose of amplifying his declaration, as made last year, after duly protesting to speak the truth in all relevant matters, was as follows:

(1) Interrogated as to whether he had been working the mines in his possession at San Carlos at the time of the occurrences and with what means, and replied that the mines, the suit for which he gained in this court, were not operated by him for himself, but in the name of a company of which he was a partner; that at the time of the occurrence he had only one man working in the mines; that, about ten days before the work of six men who had been then occupied for three months was stopped, and it was to pay off these six men that he went to Linares to bring the funds, which he said he brought.

(2) Interrogated as to whether he was in charge of any mines not his own, and the class of work and number of miners thereon employed, he replied that he was in

charge of other mines, but that they were not then being worked at all, and he was waiting for orders and funds to operate them.

(3) Interrogated whether the act for which he is on trial was committed on the highway some distance from San José, or within the jurisdiction thereof, he answered that it occurred just within the radius of the last outlying houses where the San José road debouches from the Gorga or gulch embraced within the limits of San José and close to the dwelling of those whom he regards as enemies of his, to wit: Leon Grimaldo and Antonio Vasquez; and that the occurrences transpired in front of the house of the latter and also in front of the house of witness, which was about 500 varas distant; both houses being visible from that point.

(4) Interrogated as to what amount of money he was carrying when Francisco Cruz stopped him, he stated that he had on his person $50 cash and $50 in drafts, for the payment of some small amounts he was owing.

(5) Interrogated as to whether the other party, who he said accompanied Francisco Cruz, fled to the field or remained standing close to Antonio Vasquez and others, he said he did not know whether he stayed there or ran away.

(6) Interrogated as to what was burned on the night of the occurrences, and whether his family did have to fly to the mountain, he replied that the fire was confined to a stretch, more or less long, of a hedge of bushes; and that the fire ran up to within 10 or 12 varas of the house, which was not touched at all; that his wife and family did not fly to the mountain, but slept in the house of the person charged with the administration of justice, which lies within the jurisdiction of San José, but is half a league away from the house of the deponent.

(7) Interrogated as to how many days he was in prison at San Carlos and the kind of treatment he then received and on what date he was set at liberty by this court under bail, he replied that he was under arrest in San Carlos about twenty days, nine days more in the jail, and the rest of the time in the house of Mr. Francisco Guevara Saldaña, with permission to go out to the street on his business; that in this city he was in jail for about two weeks, as follows: He was in the office of the warden of the jail and not in the jail itself, sleeping at night in the private house of Don Francisco De Witt, while during the day he was allowed permission to go to see his lawyer.

(8) Interrogated if whether, from the 11th of April to date, he had enjoyed complete liberty, and at what places he had meanwhile been, he answered that since the 11th of April last and up to date he has been in the enjoyment of complete liberty; that therefore he has been in this city and at Linares, and wherever it has been necessary for his business matters, with the sole restriction that he was occasionally called to the court and notified there not to leave the city until certain proceedings were disposed of.

(9) Interrogated if whether, during that time, he had been denied a hearing, or whether he had been deprived of any of the guaranties pledged to him under the law, he replied that he had never, often as he had appealed to the court in demand of justice, been denied a hearing. And the court therefore claims that due justice has been dealt out in his case, and there is no cause for complaint.

With the above this declaration was closed, and affirmed and ratified by the accused when he had read it, and was then and there signed by the judge, by the deponent, and by the witnesses.

We attest.

LIC. QUINTANILLA.
B. C. WORK.

Witness:
ANTONIO VALDEZ.
JESUS CASTRO.

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## No. 814.

### *Mr. Whitehouse to Mr. Bayard.*

No. 175.] LEGATION OF THE UNITED STATES,
*Mexico, October* 29, 1888. (Received November 5.)

SIR: I am in receipt of a note from Señor Mariscal, informing me that he has been advised of the arrest, on the 5th instant, at Muzquiz, Coahuila, of Gulie Shields and Isaac Wilson, whose extradition had been asked for in compliance with instructions in your Nos. 87, 98, and 110.

Consequently I to-day telegraphed you as follows:

Men mentioned in your No. 110 are under arrest at Muzquiz, Coahuila, since 5th instant.

I have also telegraphed Mr. Rankin, the United States marshal at San Antonio, Texas, the following:

Men under arrest in Muzquiz, Coahuila, since 5th instant. Needs prompt action.

As these men were arrested as long ago as the 5th instant (although Señor Mariscal only notified this legation under date of the 27th, his note being received to-day) and can only legally be held for seventy-two hours, there may be some difficulty in the proceeding. Should any arise, I will make another application to Señor Mariscal on the arrival of Mr. Rankin, unless it is deemed advisable for Mr. Rankin to proceed direct to Muzquiz, as it is probable the matter can now be arranged by a requisition from the governor of Texas to his colleague in Coahuila.

I am, etc.,

H. REMSEN WHITEHOUSE.

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[Inclosure in No. 175.—Translation.]

*Mr. Mariscal to Mr. Whitehouse.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, October 27*, 1888.

Mr. CHARGÉ D'AFFAIRES: Referring to the note from your legation dated September 1 ultimo, relative to the extradition of Gulie Shields and Isaac Wilson, I have the honor to advise you that, in a report dated the 5th instant, the mayor of the town of Muzquiz informed the governor of the State of Coahuila as follows:

"The Seminole negroes named Gulie Shields and Isaac Wilson, whose arrest you were pleased to order in your note No. 8649, of the 22d of last September, have been captured on the Nacimiento reservation, and are to be found in the public jail at this place. While advising you thereof, for the information of yourself, I should state that the public jail does not furnish many elements of security for the detention of prisoners of any importance, and it would therefore be advisable that the extradition of the aforesaid negroes should be effected as speedily as possible."

While communicating the above to you permit me to call your attention to the necessity of making formal requisition for the extradition of the aforesaid parties under the provisions of the respective treaty.

I protest, etc.,

IGNACIO MARISCAL.

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No. 815.

*Mr. Rives to Mr. Whitehouse.*

No. 153.] DEPARTMENT OF STATE,
*Washington, November* 1, 1888.

SIR: I have received your telegram of the 29th ultimo, saying that Shields and Wilson, the men mentioned in the Department's No. 110, of August 21, 1888, as being fugitives from the justice of the United States, in Mexico, have been under arrest at Muzquiz, Coahuila, since the 5th ultimo, and have communicated the fact to the Attorney-General for his information.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

No. 816.

*Mr. Whitehouse to Mr. Bayard.*

No. 178.] LEGATION OF THE UNITED STATES,
*Mexico, November* 1, 1888. (Received November 9.)

SIR: I have the honor to advise you that I received night before last a telegram from United States Marshal Rankin, San Antonio, Texas, relating to the arrest of Shields and Wilson, which reads as follows:

Will proceed to Muzquiz to get prisoners in four days.

JOHN T. RANKIN,
*United States Marshal.*

I accordingly wrote Mr. Mariscal yesterday, requesting that the governor of Coahuila be recommended to deliver the prisoners to Marshal Rankin on the presentation of the proper documents.

Mr. Mariscal, however, in answering my note, under same date, draws my attention to the fact that as yet the extradition of these men has not been formally requested, "as Mr. Bragg offered to do in his note of July 22, last."

"As soon as this is done," he goes on to say, "in accordance with the treaty of December 11, 1861, the respective papers will be passed upon by this department, and if extradition proceedings follow, the delivery of the prisoners to Marshal Rankin shall be ordered."

As this legation is supplied only with very meager details of the accusation against these men, and is ignorant in which State the crime was committed, I am not aware if Article II of the treaty of 1861 would apply to their case.

I saw Mr. Mariscal this morning, and asked him, unofficially, if, as a matter of convenience, the governor of Coahuila could not be instructed to hand over the prisoners to Marshal Rankin on the delivery of the necessary documents.

This Mr. Mariscal did not seem disposed to do, urging that it would establish a dangerous precedent with the local authorities, and objecting to such an "informal" proceeding as practically ignoring the provisions of said treaty.

Having presented the request as a mere case of convenience for both sides, I did not urge the matter further.

It is barely possible that the governor of Coahuila may take upon himself the necessary authority to deliver the prisoners to Mr. Rankin upon the presentation of his papers. If not, I fear it will be necessary for the marshal to come to this city and submit his papers; when the matter must be put through in due form, through the channel of a formal request for extradition by this legation.

I am, etc.,

H. REMSEN WHITEHOUSE.

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[Inclosure 1 in No. 178.]

*Mr. Whitehouse to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, October* 31, 1888.

SIR: Referring to the extradition of Gulie Shields and Isaac Wilson, I received last night a telegram from United States Marshal Rankin informing me that he will be in Muzquiz in four days.

As Mr. Rankin proceeds direct to Muzquiz in order to save time, I would earnestly request that your excellency be kind enough to recommend the governor of Coahuila to deliver to Mr. Rankin the prisoners on presentation of the proper documents.

I take, etc.,

H. REMSEN WHITEHOUSE.

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[Inclosure 2 in No. 178.—Translation.]

*Mr. Mariscal to Mr. Whitehouse.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, October* 31, 1888.

Mr. CHARGÉ D'AFFAIRES: I have the honor to reply to your esteemed note of even date, relative to the extradition of Gulie Shields and Isaac Wilson, advising you, as you may see by the documents relative to the case on file in your legation, that as yet the extradition of these parties has not been formally requested, as Hon. E. S. Bragg offered to do in his note of July 22 last.

As soon as this is done, in accordance with the treaty of December 11, 1861, the respective papers will be passed upon by this department, and if extradition proceedings follow the delivery of the prisoners to Marshal Rankin shall be ordered.

I reiterate, etc.,

IGNACIO MARISCAL.

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## No. 817.

*Mr. Adee to Mr. Whitehouse.*

No. 158.] DEPARTMENT OF STATE,
*Washington, November* 6, 1888.

SIR: I have received your dispatch No. 175, of the 29th ultimo, relative to the case of Shields and Wilson, whose extradition has been demanded, and have transmitted a copy of the same to the Attorney-General for his further information.

I am, etc.,

ALVEY A. ADEE,
*Acting Secretary.*

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## No. 818.

*Mr. Bayard to Mr. Whitehouse.*

No. 160.] DEPARTMENT OF STATE,
*Washington, November* 9, 1888.

SIR: I have received Mr. Bragg's No. 163, of the 15th ultimo, touching the case of B. C. Work.

The statements contained in Mr. Work's affidavit before the court at Tamaulipas, as now shown by Mr. Bragg's dispatch, are so entirely at variance with the representations heretofore made to this Department as to render those representations inadmissible as ground for further action on the part of this Government.

A copy of Mr. Bragg's dispatch has been forwarded to the consul-general at Matamoros, from whom the complaint originally came, with a statement in consonance with the second paragraph hereof.

I am, etc.,

T. F. BAYARD.

No. 819.

*Mr. Whitehouse to Mr. Bayard.*

No. 182.] LEGATION OF THE UNITED STATES,
*Mexico, November* 12, 1888. (Received November 20.)

SIR: Late on the 10th instant I received your telegram of same date, which reads as follows:

Formally request extradition Shields and Wilson.

Although I was not in possession of any of the papers usually required in making such formal requests, and was informed of nothing further in the case since I reported my action in my No. 178, of November 1 last, I at once drafted a note to Mr. Mariscal, making as formal a request as I could under the circumstances, and myself handed it to the minister, giving him verbally the necessary explanations.

I explained to Mr. Mariscal that according to the best of my belief the crime for which Shields and Wilson had been arrested had been committed in a border State, and as they were also in jail in a border State, article 2 of the treaty of 1861 seemed to apply to their case, and the extradition ought consequently to be effected between governor and governor or commissioners without difficulty, unless complications with which I was unacquainted had arisen.

Mr. Mariscal promised me that he would telegraph immediately to the governor of Coahuila, asking him if application for extradition had been made to him, and directing him to act (when such application was made) in accordance with the treaty stipulations. He also promised me to inform me as soon as an answer arrived.

Since my last dispatch (No. 178, of the 1st instant), in which I informed you of the telegram received from Marshal Rankin, from San Antonio, Texas, stating that he would be in Muzquiz "in four days,' and of my communication to Señor Mariscal, I have had nothing further concerning the case, and had supposed he (Rankin) had been able to secure the prisoners without further trouble.

It would appear strange that if Rankin had any difficulty in convincing the governor of Coahuila as to his right to take possession of the prisoners that he did not communicate the fact to this legation, or that the Mexican Government should have received no intimation of such a difficulty, as Señor Mariscal assured me was the case.

At present I am at a loss to understand whether your telegram of the 10th was suggested by the receipt of my No. 178, or owing to some to me as yet unknown complication in the case.

Up to the moment of mailing this dispatch I have heard nothing from Mr. Mariscal.

Trusting that I shall be considered to have acted in full conformity with your wishes and intentions in the matter,

I am, etc.,

H. REMSEN WHITEHOUSE.

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[Inclosure in No. 182.]

*Mr. Whitehouse to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, November* 10, 1888.

SIR: I am in receipt of a telegram from the Secretary of State instructing me to formally request from your excellency's Government the extradition of the prisoners Shields and Wilson, at present held by the courtesy of the Mexican Government in jail at Muzquiz.

As your excellency is aware, these men are accused of murder committed in the United States.

The United States marshal, Mr. Rankin, duly authorized by the Attorney-General of the United States, to receive and escort these men, is at present in Muzquiz, and I would again earnestly request of your excellency that, on the presentation of his official papers to the governor of Coahuila, the marshal may be allowed to take possession of the prisoners.

I have, etc.

H. REMSEN WHITEHOUSE.

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No. 820.

*Mr. Bayard to Mr. Whitehouse.*

No. 162.] DEPARTMENT OF STATE,
*Washington, November* 13, 1888.

SIR: In reply to your dispatch No. 178, of the 1st instant, I telegraphed you on the 10th instant to formally request the extradition of Shields and Wilson.

I am, etc.,

T. F. BAYARD.

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No. 821.

*Mr. Rives to Mr. Whitehouse.*

No. 167.] DEPARTMENT OF STATE,
*Washington, November* 15, 1888.

SIR: I herewith confirm my telegram to you of the 14th instant, as follows:

Mayor of El Paso telegraphs that the Mexican Government is constructing a dam entirely across the Rio Grande opposite to and partly within El Paso City, part of dam being on dry land in Texas.

Such work would be evidently violative of Article III, convention 1884, and invasive of territorial sovereignty. We learn work has been suspended to permit investigation. We propose to send competent Federal engineer officers to make impartial examination. Suggest that Mexico do the same, and that there may be friendly cooperation.

In this connection I add a copy of my letter to the Secretary of War, of the 14th instant,* asking, in view of all the circumstances, the detail of a competent officer of the Engineer Corps to examine the projected dam and make full report thereon; also a copy of a note from the Mexican minister here, of the 12th instant, accompanied by extracts from an unofficial letter from Señor Ignacio Garfias, engineer in charge of the construction of the work in question.

Governor Ross's letter of November 10, instant, upon which my telegram to you of the 14th instant was founded, as well as my letter to the Secretary of War of that date, gave the entire text of Mayor Lightbody's telegram, and simply requested "that the General Government take such action as may be necessary in the premises."

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* Not published herewith.

I send this correspondence merely for your information, not doubting that upon the receipt of my telegram of yesterday you immediately brought the complaint in question to the attention of Mr. Mariscal and urged upon him the necessity of having a full and impartial investigation and report made of the work of Señor Garfias by a competent Mexican federal officer, in the same manner as this Government proposed to do, by employing a United States officer to visit El Paso for that purpose, as the surest and best means of determining whether the building of the projected dam or dams conflicts with the international rights of this Government at that point.

I have just received with satisfaction your telegram of this morning, as follows:

Mexican Government willing co-operate Rio Grande. Romero telegraphed yesterday to confer with you on subject.

You will be advised by telegraph of the name of the officer appointed to conduct the examination on our part, and the probable date of his arrival at El Paso, with a view to obtaining for him all proper facilities for the execution of his task.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

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No. 822.

*Mr. Whitehouse to Mr. Bayard.*

No. 187.] LEGATION OF THE UNITED STATES,
*Mexico, November* 15, 1888. (Received November 23.)

SIR: Yesterday afternoon I received your telegram of same date relative to the dams at El Paso.

On receipt of this telegram I went at once to see Señor Mariscal, and, in order to save tiresome delays inevitable with formal notes, I handed him at the close of our conversation an abstract of your telegram.

Mr. Mariscal assured me that the action of the Mexican engineer in charge of the work in voluntarily suspending it when he found that discontent was felt on the American side had been approved by the ministry of public works; but he insisted that the American authorities were in error when they stated that a "dam" was being built, as the works were merely breakwaters or wing dams to protect the Mexican banks from being washed away by the stream.

I remarked to Mr. Mariscal that even these "wing-dams" or "breakwaters" might be very detrimental to our side of the river, as they would almost of necessity cause on the left bank the very damage they were constructed to prevent on the right.

Although Mr. Connery addressed a note to Mr. Mariscal concerning these wing-dams on February 24 last, this legation has never received any answer to his note. I therefore requested Señor Mariscal to furnish me with the data in his possession, in order that I might become conversant with the Mexican side of the question, and this he promised to do.

When I asked if the Mexican Government was inclined to send impartial engineers to co-operate with our own in endeavoring to reach a

satisfactory and neighborly solution of the difficulty, I was assured that such action would fully coincide with the views of the Mexican Government.

Furthermore, Mr. Mariscal informed me that he had already telegraphed Señor Romero to confer with you on the matter.

Consequently I sent you this morning a telegram, stating that the Mexican Government is willing to co-operate with the United States in regard to the Rio Grande dams, and that Mr. Romero had been directed by telegraph yesterday to confer with you on the subject.

On receipt of Mr. Mariscal's promised note of data I will at once furnish the Department with a copy.

I am, etc.,

H. REMSEN WHITEHOUSE.

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[Inclosure in No. 187.]

*Memorandum left with Mr. Mariscal by Mr. Whitehouse.*

NOVEMBER 14, 1888.

This legation is advised by telegram from Mr. Bayard that the mayor of El Paso has informed the Department of State that the Mexican Government is constructing a dam entirely across the Rio Grande opposite to and partly within El Paso City, part of dam being on dry land in Texas. Such work is evidently in violation of Article III of convention of 1884, and invasive of territorial sovereignty. It is understood the work has been suspended to permit investigation. It is proposed by the United States Government to send competent engineer officers to make examination, and it is hoped the Mexican Government will do the same, and that there may be friendly co-operation.

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## No. 823.

### *Mr. Whitehouse to Mr. Bayard.*

No. 188.] LEGATION OF THE UNITED STATES,
*Mexico, November* 16, 1888. (Received November 24.)

SIR: I have the honor to refer you to my dispatch No. 182, of the 12th instant, in reply to your telegram of the 10th, asking that a formal request for the extradition of Shields and Wilson be made of the Mexican Government.

I spoke with Señor Mariscal concerning his promise to telegraph the governor of Coahuila about the matter, and he read me a telegram, in which the governor states that no request for extradition has been made to him.

I therefore sent you yesterday a telegram to that effect.

I am, etc.,

H. REMSEN WHITEHOUSE.

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[Inclosure in No. 188.—Translation.]

*Mr. Mariscal to Mr. Whitehouse.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, November* 15, 1888.

Mr. CHARGÉ D'AFFAIRES: In a telegram dated yesterday the governor of the State of Coahuila informs me:

"I delayed replying to your telegram of the 10th instant in order to secure ne

sary information. Mr. Rankin has not appeared with documents setting forth the crime of the prisoners Shields and Wilson, nor has this (State) government received from the authorities of Texas any requisition for the extradition of the men."

Which I have the honor to inform you; renewing, etc.,

IGNACIO MARISCAL.

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## No. 824.

### *Mr. Whitehouse to Mr. Bayard.*

No. 190.] LEGATION OF THE UNITED STATES,
*Mexico, November* 16, 1888. (Received November 24.)

SIR: Supplementing my dispatch No. 187, of yesterday, in reply to your telegram of the 14th instant, concerning the dam being constructed at Paso del Norte, I am now able, through the courtesy of Señor Mariscal, to furnish the Department with a copy of a telegram sent by the Mexican consul at El Paso, dated the 10th instant. The copy of the consul's telegram is followed, as will be observed, by the Mexican engineer's remarks and statements on the subject.

I am, etc.,

H. REMSEN WHITEHOUSE.

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[Inclosure 1 in No. 190.—Translation.]

*Mr. Mariscal to Mr. Whitehouse.*

Unofficial.] MEXICO, *November* 15, 1888.

MY ESTEEMED MR. WHITEHOUSE: As I promised you, I send you herewith copy of some data relative to the works under way at Paso del Norte, found in a dispatch I have just received from our consul at El Paso, Texas.

I am, etc.,

IGNACIO MARISCAL.

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[Inclosure 2 in No. 190.—Translation.]

*Extract from a dispatch from the Mexican consul at El Paso, Texas, dated November* 10, 1888, *relative to the works undertaken at Paso del Norte.*

The municipal board of El Paso approved the text of a telegram to be sent, and which was sent, to the governor of Texas, which presented the question in a false and exaggerated light, saying "that the Government of Mexico is constructing a strong dam entirely across the river at a point opposite to and partly within that city, with the intent of permanently changing the river channel; that a large part of said dam is entirely on Texan soil; that, if the work be not at once suspended, the frontier will be artificially changed; and that serious damage will in consequence accrue to the owners of the said lands."

The Mexican engineer in charge of the works, I suppose, will give exact information in the case; but the inaccuracy of the report rendered to the governor of Texas is apparent from the following considerations:

First. It is not true that the part of the river in which the works are constructed is the boundary line, that line lying a great distance to the north, and not having yet been changed by the two Governments.

Second. Granting that the river, as it now runs, and not as it ran in 1852, when the boundary line was designated for all time, is the limit, said limit should be the center or middle of the normal channel of the river, and not of the slight current which runs at that point along the right bank, now that the river is dry; for such could not have been the intent of the framers of the boundary treaty, who desired to fix said boundary for all time, as, in effect, the commissioners of both Governments did do; and the works in question in no wise affect the mean line of the channel referred to.

Third. The said works, scientifically planned as they are, do not unduly trespass upon the river channel, for they are arranged to an angle that should deflect the current to a distance of not over five times the extent of the dam: not allowing said current to reach the opposite bank, nor even the center of the r[illegible]al.

No. 825.

*Mr. Bayard to Mr. Whitehouse.*

[Telegram.]

DEPARTMENT OF STATE,
*Washington, November* 17, 1888.

WHITEHOUSE,
*Chargé, Mexico:*

Major Oswald H. Ernst, detailed to visit El Paso, will probably start hence Monday. Express satisfaction at promised Mexican co-operation and request proper facilities for Major Ernst.

BAYARD.

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No. 826.

*Mr. Whitehouse to Mr. Bayard.*

No. 194.] LEGATION OF THE UNITED STATES,
*Mexico, November* 19, 1888. (Received November 27.)

SIR: On Saturday, the 17th instant, I received your telegram in regard to the visit of Major Ernst to El Paso.

As I was not able to see Mr. Mariscal personally, I sent him early this morning the inclosed note, requesting that he would be kind enough to inform me at his earliest convenience of the appointment of the Mexican engineer detailed to co-operate with Major Ernst.

On the receipt of the desired information I will wire you an abstract.

I am, etc.,

H. REMSEN WHITEHOUSE.

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[Inclosure in No. 194.]

*Mr. Whitehouse to Mr. Mariscal.*

LEGATION OF THE UNITED STATES.
*Mexico, November* 19, 1888.

SIR: Referring your excellency to our recent conversation concerning the desire of my Government to send a competent Federal engineer to confer with one appointed by the Mexican Government in regard to the wing-dams actually being constructed at Paso del Norte, and to the opinion your excellency then expressed that such a proceeding would be entirely in accordance with the Mexican Government's desire, I have now to state that I am in receipt of a telegram from Mr. Bayard which informs me that Major Oswald H. Ernst has been detailed for this purpose.

Major Ernst will leave Washington to-day (November 19) for El Paso.

It is confidently hoped that your excellency's Government will grant Major Ernst every facility for the accomplishment of the mission with which he is intrusted.

I am further requested to express to your excellency the great satisfaction of my Government at the promised co-operation of the Mexican engineers in this important matter.

Sincerely trusting that a speedy settlement may be reached which shall prove equally satisfactory to both parties interested, and with the earnest request that your excellency will kindly inform me at your earliest convenience of the appointment of the Mexican engineer detailed to co-operate with Major Ernst, I am, etc.,

H. REMSEN WHITEHOUSE.

## No. 827.

### *Mr. Whitehouse to Mr. Bayard.*

No. 195.] LEGATION OF THE UNITED STATES,
*Mexico, November* 20, 1888. (Received November 28.)

SIR: In supplement to my dispatch No. 194, of yesterday, I to-day sent you a telegram stating that I had been informed that facilities would be granted to Major Ernst, and a Mexican engineer appointed forthwith.

This message I sent you in consequence of a communication received this morning from Señor Mariscal, informing me that the request has been made to the department of public works in order that the latter may hasten to send an engineer to co-operate with Mr. Garfias, the engineer in charge at Paso del Norte, and his American colleagues in the matter of the dams being constructed at that place, and that the same department may issue the necessary instructions to facilitate Major Ernst in the accomplishment of his mission.

I am, etc.,

H. REMSEN WHITEHOUSE.

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[Inclosure 1 in No. 195.—Translation.]

### *Mr. Mariscal to Mr. Whitehouse.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, November* 19, 1888.

MR. CHARGÉ D'AFFAIRES: I have the honor to acknowledge receipt of your esteemed note of to-day, wherein you were pleased to inform me that Mr. Oswald H. Ernst, an engineer commissioned by the Government of the United States to confer with the engineer to be appointed by the Mexican Government in regard to the works under construction opposite Paso del Norte, in the Rio Bravo, was to leave Washington to-day.

In reply, I herewith advise you that I have furnished the necessary information to the department of public works, in order that the latter may hasten to send on the engineer who is to be associated with Mr. Ignacio Garfias in that conference, and that the same department may issue the requisite instructions to facilitate Mr. Ernst in the accomplishment of his mission.

I renew, etc.,

IGNACIO MARISCAL.

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[Inclosure 2 in No. 195.]

### *Mr. Whitehouse to Mr. Mariscal.*

LEGATION OF THE UNITED STATES,
*Mexico, November* 20, 1888.

SIR: I am much gratified at the receipt of your excellency's note of yesterday informing me that your excellency had made the necessary request to the department of public works, in order that that department might hasten to send an engineer to co-operate with Mr. Garfias and his American colleague concerning the construction of wing-dams at Paso del Norte.

I can confidently assure your excellency that the prompt manner in which your excellency's Government have acceded to the request of the United States in this matter will be duly and sincerely appreciated by my Government. I also beg to express to your excellency, in the name of my Government, hearty thanks for the facilities so courteously promised Major Ernst.

With the full assurance that the result of the conferences between our respective engineers may prove entirely satisfactory to both parties, I renew, etc.,

H. REMSEN WHITEHOUSE.

No. 828.

*Mr. Bayard to Mr. Whitehouse.*

No. 170.] DEPARTMENT OF STATE,
*Washington, November* 22, 1888.

SIR: I desire to acknowledge the receipt of your No. 182, of the 12th instant, relative to the case of Shields and Wilson, and to approve your course in treating the question of their extradition before Mr. Mariscal.

Owing to the informality of the proceedings of the authorities in this country, this Department has been embarrassed in dealing with the case. When the Department's telegram of the 10th instant was sent, directing you to make formal requisition, it was supposed that the papers in the case had been placed in the hands of the legation by Marshal Rankin, who it was understood had long since started for the City of Mexico.

In respect to your suggestion that Article II of the treaty of 1861, which provides for requisitions by the governors of border States or Territories for crimes therein committed, might have been resorted to, it is to be observed that this would not apply to the case of Shields and Wilson, who are charged with the commission of an offense against Federal law in the State of Texas. For such an offense it would not be within the province of the governor of Texas to request extradition.

I am, etc.,

T. F. BAYARD.

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No. 829.

*Mr. Bayard to Mr. Whitehouse.*

[Telegram.]

DEPARTMENT OF STATE,
*Washington, December* 1, 1888.

WHITEHOUSE,
*Chargé, Mexico:*

The President desires you to present to President Diaz his compliments and congratulations at the entrance upon a new term of administration under which Mexico has so prospered.

BAYARD.

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No. 830.

*Mr. Whitehouse to Mr. Bayard.*

[Telegram.]

MEXICO, *December* 8, 1888.

BAYARD,
*Secretary, Washington:*

President Diaz returns hearty thanks for President Cleveland's gracious congratulations on entrance on new term of office.

WHITEHOUSE.

## CORRESPONDENCE WITH THE LEGATION OF MEXICO AT WASHINGTON.

### No. 831.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,
*Washington, October* 22, 1887. (Received October 24.)

Mr. SECRETARY: I have the honor to inform you that I have received instructions from my Government to inform that of the United States that the inhabitants of the district of Altar, Sonora, have petitioned the governor of the State with regard to a decree of the governor of the Territory of Arizona, issued the 18th of August last, which establishes a quarantine of ninety days for the cattle introduced into the said Territory coming from Europe or Mexico, basing his decree on the ground that such cattle are diseased and calculated to spread disease among the cattle of Arizona without stating the disease which they are suffering from.

As this quarantine is equivalent to a prohibition of the importation of Mexican cattle into the United States; as according to information furnished by the local Mexican officials the cattle of Sonora are not attacked by any disease at all, either contagious or otherwise; as there are not imported into the Territory of Arizona any European cattle, but only those of Sonora, the inhabitants of that State considered that the decree of the governor of Arizona had no other object than to prohibit the importation of Mexican cattle so that the herdsmen of that Territory may have the monopoly of that article, and that the form of quarantine was given to the prohibition in order not to make it appear an act unfriendly to a neighboring and friendly nation.

For this reason Mr. Mariscal has instructed me to state to you that as, according to reliable information received by the Mexican Government, no epidemic whatever exists in the cattle of our country, the quarantine of ninety days established by the governor of Arizona, although it likewise includes cattle coming from Europe, appears to have for its exclusive object to prevent importing into the Territory of Arizona those of the State of Sonora, which can not fail to be troublesome from the disturbance of the good relations of friendship and commerce between the two nations.

Be pleased to accept, etc.,

M. ROMERO.

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### No. 832.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, October* 29, 1887. (Received October 30.)

Mr. SECRETARY: I have the honor to inform you that on the 21st of September last, on which day this legation learned from the newspapers published in this country that Leon Baldwin, a citizen of the

United States, had been murdered in the State of Durango, Mexico, it communicated this intelligence to the Mexican Government, as it usually does in such cases, to the end that suitable inquiries might be made for the purpose of ascertaining the correctness of the report, and in case a crime had really been committed against a citizen of this country or an inhabitant of Mexico, that steps might be taken with all diligence for the detection and punishment of the guilty parties, and that, if the rumor should prove to be unfounded, as has frequently happened in similar cases, its falsity might be shown.

In reply to the communication of this legation, I have received a note from Mr. Mariscal, secretary of foreign relations of the United States of Mexico, dated City of Mexico, October 17, in which is inserted a communication from the governor of the State of Durango, bearing date of the 3d instant, wherein he states that as soon as the news was received that Mr. Baldwin had been murdered, the Government of the State ordered the judge of Ventanas, who was competent to act in the case, to make the most careful investigation relative to the crime in question, with a view to detecting the criminals and to inflicting severe and exemplary punishment. The governor adds that scarcely had the investigation been commenced when Baldwin's murderers attacked the Durazno ranch, in the aforesaid State of Durango, and during that attack five of the six men who composed the attacking party, who were the very ones who had murdered Mr. Baldwin, were killed by the inhabitants, who were defending their homes; the sixth bandit made his escape, but, according to reliable information received by the authorities of that locality, he died soon afterwards in consequence of his wounds, so that the six outlaws who attacked Mr. Baldwin met their death soon after the commission of that crime. This put an end to the investigation which was about to be held by the judge of Ventanas.

These facts are stated in the report of the municipal judge of Ventanas and in that of the political chief of the district of San Dimas, in the State of Durango a copy of which documents I will send you, if you desire it.

Be pleased to accept, etc.,

M. ROMERO.

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No. 833.

*Mr. Romero to Mr. Bayard.*

[Translation.]

Personal.] LEGATION OF MEXICO,
*Washington, November* 1, 1887. (Received November 1.)

MY DEAR MR. BAYARD: I have the honor to inform you that I have this day received a letter from the consul of the United States of Mexico at El Paso, Texas, bearing date of the 27th ultimo, whereby he informs me that the horses claimed by Colonel Cowart as belonging to the United States Government were delivered to that officer on the 22d, at Paso del Norte, Mexico.

In order that the delivery might be made without further delay, and since certain formalities had to be complied with for the purpose of proving the ownership of the horses, the political chief of the canton of Paso del Norte gave his personal bond to the court of that canton, in order that the horses might be given up.

I am, etc., M. ROMERO.

No. 834.

*Mr. Romero to Mr. Bayard.*

[Translation.]

Personal.] LEGATION OF MEXICO,
*Washington, November* 2, 1887. (Received November 2.).

MY DEAR MR. BAYARD: I herewith inclose to you a copy of the Diario de Hogar (Home Journal), which paper is published in the City of Mexico. The copy inclosed bears date of October 1, 1887, and contains a letter dated Ventanas, San Dimas County, State of Durango, Mexico, September 3, 1887, which gives an account of the situation and the insecurity which prevailed in that country at that time, owing to the fact that it was infested by a band of robbers, led by Eraclio Bernal.

The letter in question states facts and incidents showing the insecurity which, notwithstanding the efforts of the Federal Government of Mexico and those of the government of the State of Durango, existed in that region at the very time when Mr. Leon Baldwin was murdered there. The defense made by the inhabitants of Durazno against that portion of the band that attacked them is likewise therein mentioned, as it is in the report of the governor of the State of Durango, the contents of which I communicated to you in my note of the 29th ultimo.

I am, etc.,

M. ROMERO.

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No. 835.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, November* 4, 1887. (Received November 5.)

Mr. SECRETARY: Referring to the communication which I addressed to you on the 29th ultimo in relation to the murder of Leon Baldwin, a citizen of the United States, in the district of San Dimas, in the State of Durango, in the Mexican Republic, I have the honor herewith to transmit to you a copy of a report sent by the governor of that State to the department of foreign relations of the Government of Mexico. This document contains telegrams and official dispatches which show that, as soon as the authorities of the aforesaid State received information of the murder in question, they took suitable measures for the apprehension and punishment of the murderers, and that the latter were speedily killed, as I informed you in my above-mentioned note.

Be pleased to accept, etc.,

M. ROMERO.

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[Inclosure.—Translation.]

*Report of the Governor of Durango.*

A seal containing the words: Mexican Republic. Office of the secretary of the government of the State of Durango. Sent from Chavarria August 20, 1887. Received at Durango at thirty-five minutes past 12 o'clock m. Sent from Ventanas on the 19th.—Mr. Governor: At 3 o'clock in the afternoon I received information that

Superintendent Leon Baldwin had been murdered at the Valenciana mine at about 1 o'clock. The captain in command of the detachment sent a party in pursuit of the outlaws.—G. Almonte.

August 20, 1887.—Citizen Municipal Chief Ventanas: Message of to-day received. Do you start at once in pursuit of Mr. Baldwin's murderers, and place the matter in charge of the conciliating judge of your locality, to the end that he may hold a strict investigation, and issue positive orders for the apprehension of the parties who committed this atrocious murder. Report result of investigation.—Flourish of the Secretary.

From Chavarria, August 29, 1887. Received at Durango at thirty minutes past 8 a. m. Sent from Ventanas on the 27th.—Mr Governor: I have just received a verbal message from the judge of Durazno to the effect that robbers attacked that place this morning. Particulars unknown. Officer commanding detachment dividing his forces and summoning that which goes by way of San Manuel.—G. Almonte.

From Chavarria, August 30, 1887. Received at Durango at twelve minutes past 8 o'clock in the evening. Sent from Ventanas on the 29th.—Mr. Governor: The second conciliating judge of Durazno writes this day that yesterday, at a dance given by the bandits under the leadership of Carlos Martinez, he, together with some of the residents of that locality, attacked the outlaws, four of them they killed, and seriously wounded one, while one succeeded in making his escape. One of the residents, named Guillermo Hernandez, was killed in the mêlée.—G. Almonte.

State of Durango. Office of the political chief of San Dimas County. Section of war. No. 69.—The muncipal chief of Ventanas, in a communication dated the 29th of August, writes to me as follows:

"I have this day received a message from the citizen second conciliating judge, which is as follows:

"'Second conciliating court of Durazno.—To the municipal chief: I hereby inform you that yesterday, at 8 o'clock a. m., this place was attacked by the robber chieftain Cárlos Martinez and his band; in view of the threats made by them, I thought best to attack them while they were dancing, and thus I succeeded in stabbing four of them to death, and seriously wounding one, while one who had been wounded made his escape. I inform you of the foregoing; and of the inhabitants of this locality, but one was killed, namely, Guillermo Hernandez. Liberty and constitution. Durazno, August 28, 1887.—Plácido Amezcua. Flourish.'

"This I have the honor to bring to your knowledge, for your information. Liberty and constitution. Ventanas, August 29, 1887.—G. Almonte."

This I have the honor to transcribe to you, to the end that you may be pleased to take into consideration the meritorious action taken by the judge of Durazno and the residents of that locality who assisted him in giving this severe lesson, which was given to the robbers by a community that was supposed to be defenseless. I beg you to accept the assurance of my respectful consideration. Liberty and constitution. San Dimas, September 2, 1887.—Ramon Castro. Flourish.

Citizen Secretary of the State Government, Durango. Office of the political chief of Ventanas.—I have the honor to transcribe the message which has been sent by the citizen judge of Durazno to this office. It is as follows:

"Second conciliating court of Durazno.—To the citizen municipal chief: I hereby inform you that yesterday, at 8 o'clock a. m., this place was attacked by the robber chieftain Cárlos Martinez and his band. In view of the threats made by them I thought best to attack them while they were dancing, and thus I succeeded in stabbing four of them to death, and seriously wounding one, while another, who had been wounded, made his escape. I inform you of the foregoing; and of the inhabitants of this locality but one was killed, namely, Guillermo Hernandez. Liberty and Constitution. Duranzo, August 28, 1887.—Plácido Amezcua. Flourish."

I beg to call your attention to the fact that although the citizen judge does not mention the names of the bandits, I inclose an original list that was found in the pocket of Cárlos Martinez. According to a report received from Joaquin Vazquez, ensign of the Thirteenth Regiment, who went to that point to render assistance, the names of the persons who aided Judge Plácido Amezcua in overcoming the outlaws were as follows: Matio Rios, Julian Rios, Romualdo Medina, Felipe Hernandez, Natividad M. Bernardino Hernandez, Victor Amaya, Sixto Amaya, Luis Amaya, Pedro Amaya, Cipriano Amaya, Felix Hernandez, Blas Baeza, Manuel Martinez, Juan Francisco Martinez, Pantaleon Reta, and Guillermo Hernandez, who perished in the affray. The brave conduct of two ladies also deserves mention. Their names are Cruz Ruiz and Antonia Dominguez, who, unaided, disarmed one of the robbers, in doing which Mrs. Ruiz received a bite in the arm. To-day at half past 4 o'clock a. m., Espiridion Morales, one of the robbers, died. He was about to be taken to Cosalá, by order of the citizen governor, there to be turned over to General Salmon. I have the honor to bring the foregoing to your knowledge, to the end that you may be pleased to bring it to that of the citizen governor. Liberty in the constitution. Ventanas, September 5, 1887.—G. Almonte. Flourish.

[illegible]

[illegible]

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No. [illegible]

*Mr. Romero to Mr. Bayard.*

[illegible]

[illegible]

[illegible]

I observe that you refer to the measure in question as not according with the spirit of the resolution of the Senate of the United States of March 5, 1886, which recommended to the President the conclusion of an arrangement with Mexico in regard to the passage of cattle from either country to the territory of the other. That resolution, the date of which was May 5, 1886, was made the occasion of instructions to the legation of the United States in Mexico, in May, 1886, proposing a negotiation in the suggested direction, and the suggestion was favorably received by Señor Mariscal, who, on the 5th day of July following, desired further information of the plans proposed. There the matter appears to have rested.

I inclose for your information a copy of the resolution in question, from which you will see that it deals only with the avoidance of the vexatious questions continually arising on the frontier by reason of the formal difficulties interposed to the restoration of grazing horses and cattle straying at will across the boundary, and does not relate to the expansion or regulation of commercial importation or exportation of live-stock, or the prevention of infectious diseases among them.

Accept, etc.,

T. F. BAYARD.

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[Inclosure.]

*Resolution.*

Whereas the boundary line between the Republics of the United States and Mexico in much of its length divides a grazing and stock-growing country, which lies on each side thereof; and

Whereas horses and cattle may and do cross said line at will, the same interposing no obstruction thereto; and

Whereas, in the absence of some treaty provision between the two countries for the reclamation of stock thus crossing said boundary line, the citizens of the two countries are liable to become embroiled:

Therefore, for the purpose of averting such complications as in consequence thereof may ensue between the two countries—

*Resolved, as the judgment of the Senate,* That it is desirable that some arrangements be made with the Government of Mexico on the subject adequate to the repression of the evil aforesaid, and promotive of peace and good will between the two countries.

*Resolved,* That a copy of the foregoing resolution be respectfully transmitted to the President of the United States.

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No. 838.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, November* 26, 1887. (Received November 28.)

Mr. SECRETARY: By sundry notes from this legation addressed to your Department, I presented, in pursuance of instructions received from my Government, a complaint on account of outrages committed at Phœnix, Maricopa County, Arizona Territory, on a Mexican citizen named Manuel Mejia, who was arrested without any warrant from a competent magistrate, and kept in prison for several days by Deputy Sheriff J. W. Blankenship, in disregard of the repeated orders of the district attorney to release Mejia, who was also subjected to most cruel

treatment by various residents of that town, his life having been saved by a mere accident, and, when his persecutors were brought to trial, they were acquitted by the competent judicial authorities, with notorious disregard of justice.

You were pleased, in reply to the last of my aforesaid notes, to inform me, under date of the 31st of May last, that this case would receive due consideration on the part of the United States Government.

As several months have elapsed without any report having been received by this legation concerning what has been done or decided upon in this case, Mr. Mariscal has instructed me to address you, making inquiry as to what has been done in this unfortunate affair.

Be pleased to accept, etc.

M. ROMERO.

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No 839.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,
*Washington, November* 28, 1887. (Received November 28.)

MY ESTEEMED MR. BAYARD: I have the honor to inform you that I have received a personal letter from the governor of the State of Durango, dated in that city the 17th instant, in which he informs me that on the 10th of the preceding month of October he had made a report to the secretary of foreign relations of the United States of Mexico in regard to the assassination of Mr. Leon Baldwin, to the effect that two of his assassins, Carlos Martinez and Vicente Becerra, had been killed, the first in the attack on Durazno, and the second a few days later; but that by information which he has since received it seems that the death of Becerra was not certain, but that he was being pursued with all activity, and that, as soon as he fell into the power of the forces of the State he would be handed over to the proper authority that exemplary and condign punishment might be meted out to him.

In the note of the 29th of October last I communicated to you the report which the governor of the State of Durango had sent to the secretary of foreign affairs in regard to this matter, to which the rectification contained in his above-mentioned note applies.

I am, etc.,

M. ROMERO.

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No. 840.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, December* 6, 1887. (Received December 7.)

MR. SECRETARY: I have received instructions from Mr. Mariscal, secretary of foreign relations of the United States of Mexico, dated City of Mexico, November 18, 1887, to inform you that the governor of the State of Chihuahua addressed a communication to him on the 20th of

August last, wherein was inserted another communication from the political chief of the district of Bravos, the chief town of which is El Paso del Norte, quoting a resolution passed by the municipal board of that city, stating the inconveniences which would accrue to the same, both as regards the public health and its rights, if a plan for draining were carried out, which appears to have been authorized by the municipal authorities of El Paso, Texas.

According to the statements published by the newspapers of El Paso, Texas, in relation to this matter, the plan provides for the construction of a large drain-pipe, which is to pass through lands that are considered as belonging to Mexico, although they are now on the left side of the Rio Grande, and is to serve as an outlet into that river. The objections to this plan are, mainly, that as the Rio Grande is an international river, it does not seem proper for works to be constructed on its banks affecting the health of the towns lying opposite, without the consent of the two Governments interested, leaving out of consideration the lack of right on the part of the city authorities of El Paso, Texas, to construct such a work on land that is thought to belong to Mexico.

The municipal board of El Paso del Norte fears that the filth which will be emptied into the river by the drain-pipe which is to lead to it will seriously affect the health of the inhabitants of that city.

Mr. Mariscal has consequently instructed me to address the Government of the United States of America for the purpose of endeavoring to prevent the accomplishment of a plan which must prove so prejudicial to the rights and to the health of those Mexican towns which are situated on the Rio Grande, especially Paso del Norte.

Be pleased to accept, etc.,

M. ROMERO.

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No. 841.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, December* 7, 1887.

SIR: In connection with my note of October 26, 1887, touching the proclamation of the governor of Arizona establishing a quarantine for cattle brought into that Territory from Mexico, I now have the honor to apprise you of the receipt of a communication from the Acting Secretary of the Interior, dated the 26th ultimo, stating that the proclamation was issued in obedience to an act of the Territorial assembly, but that a doubt having arisen as to the constitutionality of the statute, the quarantine has been raised.

It appears by a report from the governor of Arizona to the Secretary of the Interior upon the subject that the fourteenth legislative assembly of that Territory enacted a law designated the "stock and sanitary law," which was approved March 10, 1887.

By the provisions of this law there was created a sanitary commission, composed of five members, whose duties were to protect the health of the domestic animals of the Territory from all contagious or infectious diseases of a malignant character. For this purpose it was authorized and empowered to establish, maintain, and enforce such quarantine, sanitary, and other regulations as it should deem proper; and after prescribing quarantine measures and notifying the governor thereof, he

was required to issue his proclamation, which was accordingly done. But since its publication, the powers of the Territorial legislature in this connection have been made the subject of careful examination. with the result as previously stated.

Accept, etc.,

T. F. BAYARD.

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No. 842.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,
*Washington, December* 9, 1887. (Received December 10.)

Mr. SECRETARY: During an interview which I had with you on the 17th ultimo, in consequence of your note of the day previous, you informed me that a telegram dated El Paso, Texas, October 7, 1887, and published in the Globe-Democrat, of Saint Louis, Missouri, of October 8, had been communicated to the Department of State, of which telegram I took, during the said interview, the following memorandum:

James Burnett ran a train as engineer on the Central Railway from El Paso to Chihuahua in October, 1886, and met on the way a drove of asses. He pulled the bell and blew the whistle and reversed his engine. On reaching Chihuahua and oiling his engine, he found the body of a Mexican on the cow-catcher with his head broken. The engineer, the conductor, and the fireman were imprisoned by order of the competent court. The two latter, however, were speedily released, and bail to a large amount was required from the engineer. The superior court afterwards reduced the bail to $300. The engineer continued to run his engine in Mexico until a strike occurred, in which he took part, and came to El Paso, Texas. His friends here urged him to pay the amount of the bail and not to return to Mexico. He, however, thought this unnecessary, and continued going to Mexico and returning. Early in September last he was arrested in Mexico and sentenced to ten years' imprisonment.

As I told you in our aforesaid interview that I would do, I at once called the attention of the Mexican Government, and, in a private letter, that of the governor of the State of Chihuahua to the statements contained in the above telegram, and I have to-day received a reply from the governor, bearing date of the 30th of November last (a copy of which I inclose to you), which shows that the statements communicated to your Department on this subject were incorrect. It appears from that letter that James Burnett was arrested on the 15th of January, 1886; that he was declared to have been properly arrested on the 17th and released on bail on the 30th by the local judge of the State of Chihuahua, his imprisonment having lasted for but fifteen days. On the 17th of August last he was again arrested, because the party who had furnished bail for him, and who had taken part in the strike, withdrew the bail, and the case having been taken before the federal judge of the district of Chihuahua, he pronounced decision on the 15th of October last, ordering a suspension of proceedings, and releasing Burnett on bail until the circuit court should have reviewed his decision.

The report of the governor of Chihuahua contains a simple explanation of what has taken place in this case, and it appears therefrom that the information furnished to the Department of State, viz, that Burnett had been sentenced to ten years' imprisonment, was not in accordance with the facts.

I have as yet received no reply on this subject from the Federal Gov-

ernment of Mexico. I suppose, however, that when it comes it will contain the same information that has been furnished by the governor of Chihuahua in the private letter to me.

I think proper, in this connection, to call your attention to the frequency with which wholly unfounded or greatly exaggerated reports are sent from the frontier to the newspapers of this country concerning occurrences that have taken place or are supposed to have taken place in Mexico.

Be pleased, etc.,

M. ROMERO.

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[Inclosure.—Translation.]

*Governor Carrillo to Mr. Romero.*

CHIHUAHUA, *November* 30, 1887.

MY DEAR SIR: I was surprised to read the contents of your esteemed letter of the 17th instant, inasmuch as the information is entirely false which has been furnished to the Secretary of State of the United States by the society of engineers, relative to the case of James Burnett, in this State, as you will be convinced by reading a statement of the facts in relation to this matter, which are as follows:

James Burnett was arrested on the 15th day of January, 1886, was declared to have been properly arrested on the 17th, and was released on bail on the 30th of the aforesaid month of January. On the 17th of August last he was re-arrested because his bondsman, owing to the strike which took place at that time, withdrew his bail. All these proceedings took place before one of the State judges, but an inhibition having been ordered by the district judge, the case was taken before him on the 12th of September last, and on the 15th of October a sentence was pronounced, whereby a suspension of proceedings was ordered, and Burnett was released on bail until the circuit court, before which the case now is, should have received the decision of the lower court.

Thinking that the foregoing is sufficient to give you a correct idea of the matter which formed the subject of your esteemed communication of the 17th instant,

I beg you, etc.,

LAURO CARRILLO.

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No. 843.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, December* 12, 1887. (Received December 13.)

Mr. SECRETARY: Referring to the note which I addressed to you on the 9th instant, relative to the case of James Burnett, a citizen of the United States, arrested in Chihuahua, I have the honor to inform you that I telegraphed to Mr. Mariscal, secretary of foreign relations of the United States of Mexico, on the 17th ultimo, a report of the interview which I had had with you on that day, and that I have this day received Mr. Mariscal's reply, dated City of Mexico, November 30, 1887, a copy of which I inclose. In it is inserted a telegram from the governor of the State of Chihuahua, dated November 19, and having reference to this matter. The said telegram confirms the statements contained in the governor's letter, a copy of which I inclosed in my aforesaid note of the 9th instant.

Be pleased to accept, etc.,

M. ROMERO.

[Inclosure.—Translation.]

*Mr. Mariscal to Mr. Romero.*

No. 1002.] DEPARTMENT OF STATE AND OF FOREIGN RELATIONS,
*City of Mexico, November* 30, 1887.

In reply to your note No. 1058, of the 17th instant, relative to the interview had by you on that day with Mr. Bayard in relation to the case of James Burnett, I hereby inform you that, on the receipt of your telegram on this subject, the governor of Chihuahua was requested to report concerning the same, and he has sent, under date of yesterday, the following telegram:

"James Burnett was declared properly arrested by the common courts on the 17th of January, 1886. On the 30th of that month he was released on bail, and on the 17th of August last he was re-arrested, owing to the fact that the party who had furnished bail for him withdrew the same. On the 12th of September the case was taken before the federal courts, inasmuch as the case was one of homicide, committed on the railway by the train; and on the 15th of October proceedings in the case were suspended and he was again released on bail until the circuit court should have reviewed the decision."

In view of the contents of the telegram above inserted, it is to be hoped that the circuit court will confirm the decision of the district judge, and that this case will thus be finally terminated by the unconditional release of the aforesaid Burnett.

I renew, etc.,

MARISCAL.

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## No. 844.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, January* 4, 1888. (Received January 5.)

Mr. SECRETARY: Referring to the communication which I addressed to you on the 12th ultimo, I have the honor to send you a copy of the decision pronounced by the circuit court of Chihuahua, on the 20th of that month, in the case of James Burnett, an engineer on the Mexican Central Railway, who was charged with homicide. This decision affirms the one whereby the district judge declared that it was proper for proceedings against Burnett to be suspended, and brings this case to a close, releasing the accused unconditionally.

Be pleased to accept, etc.

M. ROMERO.

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[Inclosure.—Translation.]

*Copy of the decision pronounced by the circuit court of the State of Chihuahua.*

[A seal containing the words "Circuit Court, Chihuahua."]

CHIHUAHUA, *December* 20, 1887.

In this criminal case, in which proceedings have been instituted against James Burnett, charged with the homicide of Cornelio Rivera, an examination having been held of the action taken by the judge of the ordinary court for the elucidation of the facts, and whereas it appears, in the first place, that James Burnett, the railway engineer, on one of the trips made by him from Paso del Norte to this city, found, on arriving at the station, that the body of Cornelio Rivera was on the cow catcher of his engine, whereas it appears that, several witnesses having been examined, it was proved that the aforesaid engineer was not aware that his engine had struck any one until he reached his destination; whereas it appears that Rivera's relatives state that the deceased left his home at a very early hour in the morning for

the purpose of cutting wood, and that there was no evidence of any hostile feeling between him and the engineer, and no reason to believe that the latter intentionally committed the homicide in question; whereas it appears that the death of Cornelio Rivera was accidental, and that it took place under circumstances furnishing no evidence of guilty intent; and whereas the judge of the ordinary court was fully competent to hold the preliminary proceedings in this case, since his action has been approved by the district judge; and whereas the accused was released on bail, and although he was afterwards sought for by the police this was owing to the fact that his bondsman had withdrawn the bail which he had furnished; whereas, finally, no evidence of the commission of a crime having been shown, it was proper for proceedings in this case to be discontinued; now, therefore, in view of article 18 of the constitution, and of act 26, title 1, page 7, the decision pronounced in this case by the lower court, ordering a discontinuance of proceedings in this case, should be, and hereby is affirmed. Let notice hereof be given, and let the papers relating to this case be laid before the supreme court of justice of the Union, for the proper legal effects.

So ordered and signed by the citizen judge of this circuit.

We certify: J. Jacobo Rojas (flourish); Carlos Castro, witness in attendance (flourish); Jesus Oviedo, witness in attendance (flourish).

I certify that the foregoing is a true copy. (Signed) J. Jacobo Rojas, Chihuahua, December 21, 1887. Carlos Castro, witness in attendance, Jesus Oviedo, witness in attendance.

A true copy.

C. ROMERO,
*Secretary.*

WASHINGTON, *January* 4, 1888.

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## No. 845.

### *Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, January* 6, 1888.

SIR: Referring to a correspondence lately had with you in respect to the quarantine of ninety days declared by the authorities of the Territory of Arizona against the importation of cattle from Mexico, and especially to my note of the 7th ultimo, informing you that the order in question had been suspended owing to questions affecting its constitutionality, I have now the honor to communicate to you, for your information, copy of an extract from a report made to the governor of Arizona Territory by the chairman of the Territorial Live-Stock Sanitary Commission, and transmitted hither with a letter from the Acting Secretary of the Interior, dated the 4th instant. This report has been laid before the Department to illustrate the condition existing in Mexico which seemed to require the adoption of measures to prevent the introduction of contagious disease through the unrestricted importation of cattle from that country.

You will observe that the measure originated in the absence of all sanitary preventives of the importation of diseased cattle from other countries to Mexico, whence they or cattle contaminated by contact with them might readily come to the United States, and that at the same time a like quarantine was declared against the State of Missouri, where the preventive sanitary regulations were deemed to be defective and insufficient to insure complete protection. This fact seems to abundantly show that no discrimination against Mexico, such as your correspondence suggested, could have been intended.

When, as now, great disquietude exists among cattle-growers throughout the United States, owing to the prevalence of deadly contagious diseases of live-stock in many countries which maintain frequent and rapid

steam communication with the countries of the American continent, requiring the importation of contagion to be guarded against in every way, even to the extent of impeding the free relations of exchange between the several States by the adoption of constitutional sanitary measures, it would be reassuring to know that Mexico, a coterminous country, had adopted and enforced adequate steps to prevent the importation of diseased cattle from abroad, and to discover and eradicate contagion where it may exist in Mexico.

Accept, etc.,

T. F. BAYARD.

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[Inclosure.]

*Mr. Bruce to Mr. Zulick.*

[Extract.]

PRESCOTT, ARIZONA, *December* 13, 1887.

SIR: I have the honor to acknowledge the receipt of your communication of the 9th instant, requesting me to state to you, owing to complaints made by the Mexican Government to the Secretary of State, at Washington, the conditions which existed in Mexico that compelled the commission at its last meeting to require you to issue a proclamation placing in quarantine for ninety days all cattle that were being imported into Arizona from that country. The conditions, which I shall gladly explain to you, are these: At a conference of the commission, in August last, the veterinary surgeon of the Territory submitted to it a verbal report of the ravages of pleuro-pneumonia among cattle on the continent of Europe, in the Dominion of Canada, and in the United States. After a proper consideration of this report, it was decided by the commission that it was not only necessary to enforce stringent regulations in regard to importations of cattle into Arizona from States and countries where pleuro-pneumonia among cattle was declared to exist, but also from those States and Territories and countries which were exporting cattle to Arizona and had provided no sanitary regulations for the protection of their live-stock interests against this dread disease. Among the latter class it was discovered that the State of Missouri had insufficient sanitary regulations, and the Republic of Mexico, from all information received, possessed none at all. You were therefore requested by the commission to quarantine the Territory, not only against the State of Missouri, but also against the Republic of Mexico. In making complaint is it possible that the latter country expects that the Territory, to avoid a scourge that would annihilate one-third of its taxable values, would discriminate against the State of Missouri, that had only partially failed to adopt proper sanitary measures, and place no restrictions on importations of cattle from a foreign nation which has no live-stock sanitary regulations whatever? Without such restrictions, what is to keep cattle from being imported into Mexico from even the State of Missouri, and then brought back and turned loose at the will of the owner, within the borders of Arizona? What is to prevent, under such conditions, pleuro-pneumonia from being introduced into Mexico from some infected district on this continent or the continent of Europe, and thence being conveyed through the channels of its exports into Arizona? Finally, for what purpose are restrictions exercised at all in one direction, where they are needed, when cattle can be imported without surveillance in another direction, where health restrictions are still more needed? Such were the questions that arose for the consideration of the commission, and thus Mexico was quarantined, not because we had positive knowledge that contagious disease now actually exists there, but because it is liable to become infested with it at any time from lack of sanitary regulations, to be imported thence into Arizona at will, and be duly transmitted to the herds of the Territory to their destruction.

It is the purpose of the Commission, although this quarantine has been temporarily suspended because the section of the act of the legislature under which it was authorized has been declared in conflict with certain Federal statutes, and is therefore unconstitutional, to lay the extreme peril which now threatens Arizona cattle interests in the direction of Mexico before the Federal Government and to claim relief at its hands.

The Commission at its present meeting will ask you to co-operate with it, to achieve the protection that is needed, and hope we may have your official aid.

With expressions of personal and official regard,

I am, etc.,

C. M. BRUCE,
*Chairman.*

No. 846.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,
*Washington, January* 7, 1888. (Received January 9.)

Mr. SECRETARY: The agents of the International Company of Mexico, established at Hartford, addressed to me on the 12th of December last a statement setting forth that the steamer *Monserrat*, designed to run under the Mexican flag between the port of San Diego, California, and the ports of Guatemala on the Pacific, and intermediate ports, was detained by the customs authorities of San Diego, in September last, on account of the want of papers, and was sentenced to pay additional tonnage duty, in conformity to sections 4219 and 4225 of the Revised Statutes of the United States, of $1 per ton, which amounted to $849. It was stated to me, further, that this vessel had been bought last June, at Cette, France, by the said company, intended for the service aforesaid, and that it had sailed from Cardiff, Wales, under a provisional commission certified by the Mexican consul at Cardiff; that on approaching Salina Cruz, on the Mexican Pacific coast, on the way to San Diego, the papers were lost through the upsetting of a small boat to which they had been transferred; for which reason I was solicited to address your Department to make known that the steamer in question was Mexican, in order that the sum paid as additional tonnage duty might be returned. Not having official data to assure myself of the correctness of the preceding information, I sent the statement referred to to my Government, and to-day I have received instructions from Señor Mariscal, dated City of Mexico, the 27th of December last, in which he tells me that having consulted the department of war and navy of Mexico with regard to this matter, it appears that the *Monserrat* had the right to sail under the Mexican flag; that the loss of her papers was really accidental, and that orders had been given to the Mexican marine authorities to replace them in due form.

Be pleased to accept, etc.,

M. ROMERO.

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No. 847.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,
*Washington, January* 9, 1888. (Received January 10.)

Mr. SECRETARY: I have had the honor to receive your note of the 6th instant, and the accompanying copy of extracts from the report addressed on the 13th of December last to the governor of the Territory of Arizona by Mr. C. M. Bruce, president of the Cattle Sanitary Commission of the Territory, with reference to the quarantine of ninety days decreed against Mexican cattle.

In your said note, as well as in the report of Mr. Bruce, it is indicated that the quarantine was not decreed against Mexican cattle only, and that it was decided on principally because it was believed that there were no regulations in Mexico to prevent the importation of cattle in-

fected with contagious diseases, and because pleuro-pneumonia being prevalent in Europe and in different countries of America, and it being possible to import, without any restriction whatever, foreign cattle into Mexico, and from Mexico into Arizona, it was thought that there was on this account great danger to the cattle of that Territory.

I now communicate to the Mexican Government copy of your note, for its information, and in order that, by reason of it, it can determine what it may deem proper in this matter; and I do not doubt that if the observations of the cattle sanitary commission of Arizona have any foundation, my Government will adopt measures adequate to protect the interests of Mexican cattle, and to prevent its infection with contagious diseases through the importation of foreign cattle.

But I think proper to inform you here that Mexico being a country very productive in cattle, and this article having there a low valuation, Mexico far from being an importer is an exporter of cattle.

The only foreign cattle imported into Mexico are very choice breeds of high price, to improve the native cattle, and their purchase and importation are made under conditions that guaranty against all danger of contagion. Besides, Mexican cattle have not hitherto been infected with any contagious disease.

Accept, etc.,

M. ROMERO.

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No. 848.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, January* 11, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, concerning the fine imposed by the customs authorities at San Diego, California, upon the Mexican vessel *Monserrat*, on account of a defect in her papers, stated to have been duly authenticated, but accidentally lost by the capsizing of a small boat to which they had been transferred.

In reply I desire to say that a copy of your note has been sent to the Secretary of the Treasury for the consideration of his Department.

Accept, etc.,

T. F. BAYARD.

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No. 849.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, January* 23, 1888.

SIR: In connection with previous correspondence, and in reply to your note of the 9th instant, wherein you say that Mexican cattle have not hitherto been infected with any contagious disease, I have the honor to request that I may be advised of the system of sanitary inspection and control exercised by the Mexican Government with reference to its native cattle as well as with those imported from any quarter, including the several States and Territories of the United States.

As the regulation of this matter of cattle quarantine is under the several governments of the Union, and as the precautionary measures adopted by them are often necessarily operative against other States or Territories, it is desirable to be assured that the conditions of sanitary inspection and control in Mexico are such that local quarantine of this nature may not be evaded by mere transit from an infected locality through Mexican territory.

The importance of this matter will, I am sure, commend itself to you, and I shall appreciate the favor of a report in relation thereto.

Accept, etc.,

T. F. BAYARD.

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No. 850.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, January* 23, 1888.

SIR: I have the honor to invite attention to my note of the 11th instant, concerning your request for the refund of the sum of $849 levied by the collector of customs at San Diego upon the steamer *Monserrat.*

It appears by a letter from the Secretary of the Treasury, dated the 14th instant, that the collection was made under the authority of the sections of the Revised Statutes which you recite, but without regard to the fact that marine documents were not produced at the time of the entry of the vessel, as is customary in such cases. It appears further that duties at the rate levied in the present instance are imposed by law upon the tonnage of all vessels not of the United States which may enter the ports of this country from any foreign port or place, provided no rights acquired by any foreign nation, under the laws and treaties of the United States, relative to the dues on tonnage of vessels, shall be impaired.

Under the circumstances therefore the Secretary of the Treasury expresses regret that he perceives no just grounds for exempting the *Monserrat* from the payment of the duties in question or for refunding the same.

Accept, etc.

T. F. BAYARD.

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No. 851.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, January* 26, 1888. (Received January 27.)

Mr. SECRETARY: I have had the honor to receive your note of the 23d instant, in reply to mine of the 7th, in which I asked for the return of the sum of $849, or $1 per ton, which had been collected from the Mexican steamer *Monserrat* by the collector of customs at San Diego, California.

Your note contains the substance of a communication addressed to

you on the 14th instant by the Secretary of the Treasury, wherein it is stated that the amount in question was collected in pursuance of sections 4219 and 4225 of the Revised Statutes of the United States, cited in my aforesaid note, and not because the vessel had failed to present the proper papers on her arrival, for which reason that officer thinks that there is not sufficient ground for exempting the *Monserrat* from the payment of that duty, or for refunding the same.

The International Company of Mexico, which is the owner of the steamer *Monserrat*, paid the money under protest, thinking that the lack of entrance papers was the only ground for the imposition of that duty, and that said duty was collected provisionally pending the furnishing of evidence by the company that the *Monserrat* was a Mexican vessel, by means of a document having the same force as the register.

It now appears, however, that the duty was collected simply because the vessel did not belong in the United States. If such was the reason for the collection of that duty, it seems as if it ought to be collected on all Mexican vessels and those of other nations, provided that rights acquired by law or by treaties with the United States are not thereby violated.

As regards Mexican vessels, I think it proper to state that, in my opinion, section 14 of the shipping act of June 26, 1884, was violated by the collection of the duty of $1 per ton. Section 14 of that act limits the tonnage duty on all vessels entering any port of the United States from a foreign port to a maximum of 6 cents per ton at each entry, and to another annual maximum of 30 cents per ton.

The collection of $1 per ton from the *Monserrat* at San Diego appears to be in contravention of the provisions of section 14 of the act of June 26, 1884, if such collection was made solely because that vessel did not belong in the United States; and the power of the Secretary of the Treasury to return the amount of that duty appears to be clearly established by section 26 of the same act, inasmuch as it was a charge that was improperly imposed, and by section 3012½ of the Revised Statutes of the United States, inasmuch as the duty was paid under protest.

It is to be hoped that Mexican vessels entering United States ports may not be compelled to pay the excessive charge of $1 per ton which is expressly prohibited, in the case of foreign vessels, by the act of June 26, 1884, and I trust that when the Treasury Department reconsiders this case it will be found that the duty in question was collected in contravention of a law of the United States.

Be pleased to accept, etc.

M. ROMERO.

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No. 852.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, February* 10, 1888.

SIR: I have the honor to transmit, for your information, in connection with my note of the 3d ultimo, the inclosed copy of a letter from the governor of Texas, dated the 3d instant, covering a report by Mr. J. M. Dean, district attorney for the thirty-fourth judicial district of Texas, in regard to the complaint of the Mexican Government of the injurious effects to the inhabitants of Paso del Norte from a certain

sewerage drain or pipe constructed on the American side of the Rio Grande at El Paso, Texas. The conclusions of the report, after a full examination of the subject, are that it is difficult to see how the health, comfort, enjoyment or convenience can be directly or remotely affected by the drain-pipe in question.

Accept, etc.

T. F. BAYARD.

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[Inclosure 1.]

*Mr. Ross to Mr. Bayard.*

EXECUTIVE OFFICE,
*Austin, February* 3, 1888.

SIR: In reference to your communication of January 3, which inclosed a communication from the Mexican minister at Washington, complaining of the effect a certain sewerage drain or pipe constructed on the American side of the Rio Grande was having on the inhabitants of the Mexican side, I have the honor to state that on the 8th of January I directed the Hon. J. M. Dean, the district attorney of the thirty-fourth judicial district, to make a thorough examination of the whole matter and report thereon. This report I inclose for your consideration, and am, etc.,

S. S. ROSS.

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[Inclosure 2.]

*Mr. Dean to Mr. Ross.*

MARFA, TEXAS, *January* 30, 1888.

SIR: In accordance with your communication of the 8th instant I have made a thorough examination and investigation of the matters complained of in the annexed communication of Señor M. Romero directed to Hon. Thomas F. Bayard. The following I most respectfully submit as the facts in the matter:

(1) The Rio Grande at El Paso, Texas, flows in an easterly direction.

(2) The city of Paso del Norte, Mexico, is on the south side of said river, and El Paso, Texas, on the north side of same, nearly if not quite opposite Paso del Norte.

(3) All the water used by the citizens of Paso del Norte and vicinity, in Mexico, for any purpose whatever, is taken from what is known as the "Acequia Madre." Said Acequia taps the Rio Grande above or west of Paso del Norte about 1½ miles, and about the same distance west or up the river from El Paso, Texas.

(4) The drain-pipe complained of has been constructed by the municipal authorities of El Paso, Texas, and is about 12 inches in diameter, is wholly on the north or American side of the Rio Grande, and empties into said river at a point on the same about 2½ miles east or down the river from the point where said river is tapped by the "Acequia Madre" of Paso del Norte.

(5) Except Paso del Norte and its adjacent orchards, farms, and inhabitants, all of whom, as before stated, use water from Acequia Madre, the territory along the Rio Grande on the south side is wholly uninhabited for a distance of about 20 miles east of the point where said drain or sewer pipe empties into said river.

(6) That said drain-pipe crosses no territory belonging to the Republic of Mexico.

(7) The Rio Grande at the point where said drain-pipe empties into it, and for many miles east thereof, is exceedingly muddy whereby it is considered by experts to be impossible for the discharge of sewage from said pipe to injuriously affect the waters of said river for a greater distance than 2 miles.

(8) From the nature of the river bank on the south side of the Rio Grande it would be almost an impossibility to take out a ditch or acequia to be used in Mexico any nearer the drain-pipe on the east or down the river from said pipe than 10 miles.

(9) The waters of the Rio Grande are rarely, if ever, used unless first taken therefrom in acequias, as it is by Paso del Norte.

(10) That all of the inhabitants who reside near the Rio Grande for a distance of 20 miles east or down the river from said drain-pipe are on the north side of said river and are inhabitants of the United States of America.

The above being the facts of the case, it is difficult to see how the health, comfort, enjoyment, or convenience of any citizen of the Republic of Mexico is to be in any way directly or remotely affected by said drain-pipe. Were the facts reversed and the drain-pipe up the river or west of the mouth of the Acequia Madre, then there might be some apparent cause for complaint.

The above conclusions of my own I find upon investigation to be also the opinions held by various prominent citizens of Paso del Norte, Mexico, and notably of ex-Governor Samaniego, of Chihuahua, now residing in Paso del Norte, Mexico.

Hoping that my investigation and report of this matter is adequate to the needs of your excellency,

I am, etc.,

J. M. DEAN.

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No. 853.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, February* 10, 1888. (Received February 10.)

Mr. SECRETARY: I have observed, both in the correspondence of the representatives of the United States in Mexico, which has been published by their Government, and in statements made by prominent persons in this country, expressions and opinions respecting the free zone which exists in the portion of Mexico bordering on the United States which I consider wholly unfounded; it has consequently seemed proper to me, from a due regard to the good understanding and harmony between our two countries, to offer some explanations, whereby I trust that the erroneous impressions that now prevail on this subject will be rectified.

I think I do not hazard much in saying that in both official circles in the United States and outside of those circles it is believed that the free zone was established in Mexico as an act of antagonism, if not of hostility, to the United States, and mainly, if not solely, for the purpose of encouraging smuggling, to the prejudice of the fiscal interest of this country. It will not be difficult to show how unfounded these opinions are.

When, in pursuance of the treaty of February 2,1848, the Rio Grande from El Paso del Norte to the point where it flows into the sea was accepted as the boundary line between Mexico and the United States, and when American settlements began to be made on the left bank of that river, two peoples were brought into contact with each other whose economical and commercial conditions offered a striking contrast. In the United States no taxes were levied upon internal trade, and it was not otherwise restricted. The import duties on foreign goods were at that time relatively low, and the country was just entering upon an unexampled career of progress, while in Mexico, which had inherited the Spanish system of taxation, taxes were levied which largely increased the cost of domestic goods; the collection of these taxes rendered internal custom-houses necessary, and the restrictions placed upon trade were numberless; import duties on foreign goods were so high as to be prohibitory; in addition to this, the importation of various kinds of goods was prohibited, among them some of prime necessity, such as provisions.

The result of this state of things was that while in Brownsville, and other towns on the left bank of the Rio Grande, domestic articles of daily use, such as provisions, clothing, etc., were sold at a comparatively low price, in the Mexican towns on the right bank they cost twice and even four times as much, and that foreign goods also were much cheaper on the one than on the other side of the river.

This difference of circumstances necessarily brought about one of these two results: It either caused the inhabitants of the Mexican towns to emigrate to those of the United States in order to enjoy the advantages which were to be had in that country, or it induced them to purchase the goods which they needed in the United States and then to smuggle them over to the Mexican side.

In 1849, that is to say in the year following that in which the new boundary line was adopted, the situation on the Mexican frontier became so disquieting, that the Federal Congress was obliged to pass a law, on the 14th of April, which may be considered as the first step toward the establishment of the free zone. This law authorized, for a term of three years, the importation through the frontier custom-houses of the State of Tamaulipas of such provisions as were for the use of the people of the frontier, which goods, up to that time, had been prohibited by the existing tariff or had been subject to very heavy duties.

This law did not meet the exigencies of the situation; and in 1858 the free zone was established by the governor of Tamaulipas as an absolute necessity of the State.

On the 5th of February, 1857, the constitution was adopted which is now in force in Mexico, and which went into operation on the 16th of September following. On the 1st of September, Don Ignacio Comonfort, the constitutional President was inaugurated, and unfortunately a pronunciamiento was issued by him on the 17th of the same month against the constitution; he also dissolved the Federal Congress which was then in session. For this reason several Mexican States, especially such as were at a distance from the center, reassumed their sovereignty, and their legislatures granted extraordinary powers to the governors, in order to enable those officers to protect their institutions.

In virtue of these powers the governor of the State of Tamaulipas issued, on the 17th of March, 1858, a decree which was designed to afford a remedy for the hardships that were then suffered by the frontier population of that State. This decree established what has since that time been known as the free zone, in which foreign goods intended for the use of the frontier towns of the State and of the ranches in their jurisdiction, or for trade between those towns, were to be exempt from all Federal duties, but not from municipal or State taxes; an unlimited right of bonding being, moreover, granted to those towns. Thus it was that foreign goods imported there could remain stored indefinitely without paying any duties to the Federal treasury. The said goods paid no import duties except when they were removed from those towns to be shipped to the interior of Mexico.

Nothing could furnish a better explanation of the true object of the decree issued by the governor of Tamaulipas, if there were room for any well-founded doubt with regard to it, than the grounds on which he based his action, which were as follows:

> Whereas the towns on our northern frontier are in a state of actual decadence owing to the want of laws to protect their trade; and whereas, being situated in close proximity to a commercial nation which enjoys free trade, they need similar advantage, in order to avoid losing their population, which is constantly emigrating to the neighboring country: Now, therefore, desiring to arrest this serious evil by means of franchises which have so long been demanded by the frontier trade ——.
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> * * * * * * *

The decree of the governor of Tamaulipas of March 17, 1858, was submitted to the legislature of the State and also to the Federal Congress for their approval, and it was approved by the latter body July 30, 1861.

This brief statement will, I think, be sufficient to show that the establishment of the free zone was a step taken in fulfillment of the duty

self-preservation, so to speak, and that it was by no means a measure adopted in a spirit of unfriendliness, much less of hostility, toward the United States, as has been believed in this country.

The second impression which prevails here with regard to the free zone is equally unfounded.

The events connected with the foreign intervention did not permit the effects of the free zone to be felt in Mexico until the Republic returned to its normal condition, as it did when peace was restored.

In the report made by the Secretary of the Treasury to the Congress of the United States September 16, 1869, that officer stated that one of the causes of the then depleted condition of the Mexican treasury was the large contraband trade that was carried on through the free zone enjoyed by the frontier towns of Tamaulipas. The Secretary remarked at the same time that the custom-houses of those towns were scarcely able to meet their expenses, which showed that that region had not prospered, notwithstanding the franchises granted to it by the free zone, and that the said zone was not the proper remedy for the evil which it was intended to cure.

It is true that the privilege granted by the free zone to the inhabitants of the northern portion of Tamaulipas to import foreign goods without paying import duties, to store them in their own houses, and to keep them in bond for an unlimited time was, and has been, a powerful incentive to smuggling, with a view to repressing which recourse has been had in Mexico to a costly and complicated system of inspection. Protection to smuggling was not, however, the object had in view by the creators of the free zone, nor has it been possible for smuggling to be carried on to the prejudice of the United States to the same extent to which this has been done to the prejudice of Mexico.

Inasmuch as the duties levied by the Mexican tariff are much higher than those of the United States, it is evident that the most lucrative contraband trade is that which is carried on to the detriment of the Mexican treasury. That trade is, at the same time, carried on with less difficulty, because the Mexican frontier is very sparsely populated, in consequence of which the difficulty of guarding it is greatly increased, while the frontier of the United States is more thickly settled and better defended against smuggling.

It does not seem to me conceivable that, in order to encourage smuggling, to the detriment of the United States Treasury, which might be counted as one, smuggling could be encouraged to the detriment of the Mexican treasury, which might be counted as ten (*i. e.*, in order to injure the United States the Mexicans would not be willing to injure themselves ten times as much); and if the smuggling which is carried on through the free zone were a sufficient reason for the abolition of the latter, the interest of Mexico in this matter would long since have settled this question.

There is another consideration to which I think proper to call your attention before concluding this note, and which, in my judgment, may be regarded as an advantage to the United States accruing from the free zone. As I have already stated, the Mexican system of legislation concerning customs and excise duties has generally been restrictive and even prohibitory, both by reason of the high import duties established in my country and of the existence of interior custom-houses; also on account of State and municipal taxes, which necessitate vigilance and restrictions that can not do otherwise than hamper business transactions. I have frequently seen complaints on this account in official documents of this Government, and I confess that some of them have

appeared to me to be not without foundation, although we are the party that suffers most from those restrictions. If the free zone in Mexico has inconveniences for this country much less serious than those which it has for Mexico, it has, in my judgment, one advantage which has hitherto remained unnoticed. That advantage is that goods from the United States may be imported into Mexican territory duty free and be warehoused in the region of the zone for an unlimited time. No greater privileges to the commerce of a nation can be asked for. If these privileges, which are confined to a limited zone, were extended to the whole country, I do not think that the United States would consider the free admission of their productions into Mexico as being prejudicial to their interests.

As I have already remarked, the opinion of Mexican statesmen with regard to the free zone has been divided, some having thought that it should be abolished, because it grants to one section of the country privileges which are not authorized by the constitution, and others having maintained that, under the circumstances, it was an imperative necessity, and that its abolition would be equivalent to the destruction of the frontier. The latter opinion finally prevailed in the councils of the Mexican Government, and in accordance therewith the free zone was extended to the States of Coahuila, Chihuahua, Sonora, and the territory of Lower California, for a distance of 20 kilometers from the boundary line; and thus, so far from any encouragement being afforded to those who favored the abolition of the free zone, the opposite system triumphed completely.

The free zone was subjected to regulations, or rather it was confirmed and amplified, by another decree of the governor of Tamaulipas, bearing date of October 29, 1860, and the Federal Government did not subject it to regulations until June 17, 1878. Chapter XII of the tariff of January 24, 1885, subjected the free zone to regulations in a restrictive way. Such, however, was the pressure exerted by the frontier towns and by their representatives in the Congress of the Union that, by a decree dated June 19, 1885, the limitations established in that chapter were suspended and more liberal regulations were again adopted in the tariff of March 1, 1887, which is still in force.

I think it proper for me to state in this connection than when I was obliged to study this question thoroughly, owing to the fact of my filling the office of the secretary of the treasury of the United States of Mexico, I formed an opinion which was decidedly adverse to the free zone, which opinions I expressed in official documents, and recommended its abolition to Congress; so that, instead of having been an advocate of the zone, I have probably been its most earnest opponent. The reasons which led me to this conclusion were of a constitutional character, and although I was aware that the situation of the frontier towns of Mexico required the adoption of suitable remedies, I always exerted myself to have measures adopted of such a nature that they could be extended to the whole country, they thereby being divested of their odiousness as privileges.

There can be no doubt as to the right of the Government of Mexico to establish rules relative to domestic and foreign trade in the country, and the misunderstanding which has prevailed here with regard to the object and tendencies of the free zone, and the manner in which that misunderstanding has been expressed by certain Federal and State officers, has really served as an argument to the advocates of the free zone who attribute to their opponents a design in advocating its abolition

to sacrifice the interests of Mexico to satisfy the demands of the United States.

It may not be out of place for me to quote here certain views that were expressed by the secretary of the treasury of Mexico in the report submitted by him to the Congress of the Union under date of September 16, 1870. They are as follows:

The friendly representations made by the United States Government to that of the Republic in relation to the injury accruing to the United States from the free zone are also worthy of being taken into consideration by the Congress, not that it may seek to please the neighboring nation in a spirit of servility at the expense of the rights and interests of the Republic, which it is under obligations to care for and uphold above everything else (which spirit would be unworthy of our national representatives), but as a neighborly act, and in order to have a right to be heard and treated with consideration in case that in process of time some difficulty arise on our northern frontier of such a nature as to possess, as regards Mexico, the character which the free zone possesses as regards our neighboring nation; in order, moreover, that Mexico may acquire a new title to be heard and considered in a cordial and friendly as well as just and equitable manner when she may have occasion to offer remonstrances with a view to the protection of her interests.

A nation's dignity is not so well upheld by refusing to consider the moderate and amicable remonstrances of a neighboring nation as it is by hearing and considering such remonstrances and then acting according to the requirements of justice.

As a supplement to this note I have the honor to inclose a pamphlet containing the following documents:

(1) Text of the decree of the governor of Tamaulipas, dated March 17, 1858, establishing the free zone.

(2) A law passed by the Federal Congress of Mexico, dated July 30, 1861, confirming the above decree.

(3) Regulations concerning the free zone, promulgated by the governor of Tamaulipas, October 29, 1860.

(4) The first regulations concerning the aforesaid zone, promulgated by the Federal Government June 17, 1878.

Fuller details on this subject will be found in the speeches delivered by the secretary of the treasury in the Mexican Congress on the 28th and 29th of October, and on the 4th and 5th of November, 1870, which are contained in the "verbal reports of the secretary of the treasury to the Congress of the Union during the first period of the second year of its sessions," printed in the City of Mexico in 1870, a copy of which I sent to you as an inclosure to my note of January 4, 1886.

Be pleased to accept, etc.,

M. ROMERO.

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[Inclosure 1.—Translation.]

*Decree establishing the Zona Libre.*

GOVERNMENT OF THE STATE OF TAMAULIPAS.

The citizen Ramon Guerra, governor *ad interim* of the State of Tamaulipas, considering that the towns on the northern frontier are really in a state of decay for the lack of laws to protect their commerce; that, situated in the immediate vicinity of a mercantile nation which enjoys free commerce, they need equal advantages, in order not to lose their population, which is constantly emigrating to the neighboring country; desiring to put an end to so serious an evil by means of privileges which have so long been demanded by the commerce of the frontier; favorably considering the petition of the inhabitants of Matamoros, and using the extraordinary faculties with which I am invested by the decree of December 28, the last of the honorable legislature of the State, with the advice and consent of the council, I have seen fit to decree as follows:

ARTICLE 1.

Foreign goods designed for the consumption of the city of Matamoras and of the other towns on the bank of the Rio Bravo—Reynosa, Camargo, Mier, Guerrero, Monterey, and Laredo—and for the trade which these towns carry on among themselves, shall be free from all duties, with the exception of municipal duties and such taxes as may be imposed, to the end that the burdens of the State may be borne; in like manner, goods deposited in Government warehouses, or in warehouses belonging to private individuals in the said towns, shall be free of duties so long as they are not conveyed inland to other towns of the State or of the Republic. The terms on which this trade is to be conducted are laid down in the following articles:

ARTICLE 2.

Mexican or foreign merchants, settled on the left bank of the Bravo, who may desire to avail themselves of this privilege, may transport their goods and fix their trading establishments, without paying any duties, in any of the towns aforesaid, being subject in making such transportation to the provisions made in the laws of the maritime and frontier custom-houses for the importations of foreign goods into the Republic, with the object of avoiding the clandestine introduction of goods to the detriment of the national treasury.

ARTICLE 3.

Any load conveyed to the right side of the Bravo must be carried through the fords of the river designated in the regulations of the custom-houses of said towns, and goods about to be shipped, already shipped, or which have been discharged at other places than those designated shall be subject to confiscation, together with the vessel, boat, launch, carts, or wagons upon which such goods were conveyed, and the carriers shall be required to pay a fine of from twenty-five to one hundred dollars; and the owners of the load shall be obliged, besides forfeiting their goods, to close the trading establishments which they may have in the Republic, their names being published in the newspapers, together with a statement of the fact and an order directing the closure of their business.

ARTICLE 4.

Goods leaving the towns where the custom-houses are designed for free consumption must go with permits or passes, as is usual in the internal trade of the Republic; in these documents various stations shall not be indicated, but only one in which the goods are to be consumed, and a fictitious name of the carrier shall not be inserted, but his real Christian name and surname, as likewise the name of the sender and that of the consignee. Any failure in this respect will give rise to a grave responsibility on the part of the official issuing such documents. Acknowledgments of the receipt of the goods, and of the delivery of the same to the consignees, will in all cases be required with little delay, in order that goods consumed outside of the privileged towns, in violation of the permit, may pay the lawful duties. Goods for the use of ranchos in the jurisdiction shall be required to pay no duties when their value does not exceed thirty dollars, and when they have the proper permits, without which requisite they shall be confiscated.

ARTICLE 5.

The circulation of goods for free consumption, as well as for conveyance into the interior of the Republic, shall be subject to the examination of the custom-house officers at the place whence they are sent. The carriers of such goods must present themselves with the same, and with their documents, at the sentry-boxes situated on their route, to the official on duty, that they may receive his visa, without which requisite they shall be liable to confiscation, although the documents covering the load may have been issued in due form of law. It shall also be the duty of the carrier to present the load and documents at the custom-house of the place of destination, under the same penalty of confiscation.

ARTICLE 6.

The administrator (collector) of the custom-house issuing the permits or passes must give notice, by the next ordinary mail, to the administrator of the custom-house at the place of destination, that said documents have been issued, stating the date and the numbers thereof, the name of the carrier and of the consignees, and the time fixed for their presentation. The administrator of the custom-house at the place of destination shall compare the load with the documents covering it, examining it carefully in accordance with the custom-house regulations, and sending word as to the

result to the administrator of the custom-house at the point whence the goods were sent.

ARTICLE 7.

Foreign goods leaving the privileged towns to be conveyed into the interior of the Republic shall, at the time of so doing, become subject to the duties laid upon them by the tariff, and they shall never be conveyed into the interior without having paid, at the custom-house of their place of departure, all duties which are required to be paid in the port, and without the observance of all the requirements and provisions of the laws in force, in order not to be molested or detained on their way.

ARTICLE 8.

As the privilege granted by this decree ought not to cause any detriment to the national revenue, it is the duty of the inhabitants of the frontier to prevent, by all the means in their power, this privilege from being converted into a shameful smuggling traffic; it is, therefore, the duty of every inhabitant of the frontier voluntarily to become a sentinel, constantly on the watch to prevent smuggling; otherwise, the government will be under the painful necessity of withdrawing this privilege, by revoking the present decree.

ARTICLE 9.

This decree shall be subject to the revision and approval of the Congress of the State at its next meeting in ordinary session and to that of the general Congress when constitutional order shall be restored, although it shall go into force as soon as published in the privileged towns.

Therefore I order it to be printed, published, circulated, and duly enforced.

Done at Ciudad Victoria, March 17, 1858.

RAMON GUERRA.

JOSÉ MARIA OLIVERA,
*Chief Official.*

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[Inclosure 2.—Translation.]

*Decree of the Federal Government approved the decree of the Government of Tamaulipas establishing the Zona Libre.*

BENITO JUAREZ, President of the United States of Mexico, to the inhabitants thereof:

Be it known that the sovereign Congress has deemed proper to decree the following:

ARTICLE 1. We do approve of the act passed by the State of Tamaulipas on the 17th day of March, 1858, by which the towns of Matamoros, Reynosa, Camargo, Mier, Guerrero, and Monterey-Laredo, situated on the right bank of the Rio Grande, were made free ports of entry for all foreign goods shipped to these towns and destined for the consumption of and traffic between said towns, under the rules and regulations laid down in said decree.

Given in the halls of the Congress of the Union of Mexico on this 30th day of July, 1861.

JOSÉ LINARES,
*Deputy President.*

E. ROBLER,
GIL L. GANOA,
*Deputy Secretaries.*

In witness whereof I have ordered the foregoing to be printed, published, and circulated for the proper compliance with the same.

Given at the Nacional Palace of Mexico on the 30th day of July, 1861.

BENITO JUAREZ.

Citizen HIGENIO NUÑEZ,
*Secretary of State, Treasury, and Public Credit.*

Take notice of the foregoing and enforce the compliance therewith.

Liberty and reform. Mexico, July 30, 1861.

NUÑEZ.

The POLITICAL CHIEF *of the District of Northern Tamaulipas.*

The above is a certified copy.

H. Matamoros, September 2, 1861.

N. CORDOVA,
*Secretary.*

[Inclosure 3.—Translation.]

*Decree of the Governor of Tamaulipas.*

[Maritime and frontier custom-house of Matamoros, government of the State of Tamaulipas.]

The privilege granted to the frontier towns for the free introduction of goods was general as to all of them, and there is no necessity, therefore, for conveying from one point in the zone to another point therein any goods save those which can not be introduced, or are not customarily introduced, for the limited local consumption of such towns. But nevertheless, as you point out in your communication of the 19th instant, even this privilege may be abused in the way you suggest, and therefore the Government warns you not to issue transit permits or passes in such cases, except for such quantity or number of articles or merchandise as you may deem sufficient for the consumption of the town to which the same are bound, leaving this to the judgment of your administration, which is hereby competently authorized to make the qualification in question.

And to the end that this provisional regulation, whereof information has been communicated to the supreme Government, shall be carried out, I send like instruction, under even date, to the custom-houses along the border, in order that they may observe it until further orders may become proper for the protection alike of commercial liberty within the limits of the zone and avoiding the resultant abuses.

I say this to you for your information and the further ends, assuring you of my especial esteem.

God and liberty. Tampico, January 29, 1859.

JUAN J. DE LA GARZA.
[Flourish.]

DARIO BALANDRANO, SECRETARY,
*To the administrator of the maritime and frontier custom-house of Matamoros.*

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[Inclosure 4.—Translation.]

*Circular to custom-houses.*

MARITIME AND FRONTIER CUSTOM-HOUSE OF MATAMOROS,
GOVERNMENT OF THE STATE OF TAMAULIPAS.

Answering the inquiry which the custom-house of Matamoros addressed to this Government on the 11th instant, I have thought proper to make the following explanation, for the better understanding and application of the decree dated August 17th last past and the 15th of the present month:

(1) The decrees cited ought to be applied as complements of each other, with the object of re-establishing the order and credit in the custom-houses of the frontier and equalizing the commerce of the latter with the other ports of the Republic.

(2) There may be imported and kept in the towns embraced within the Free Zone all goods and merchandise of whatever class and nature, without paying any other duties than municipal, which shall be collected in accordance with the present tariff up to the 31st of December next and from that day forward in accordance with the general ordinance of 1856. Of the goods introduced into the Free Zone there can only be interned up to the 31st of December next the goods permitted by the tariff which expires, and from that day forward those may be interned which the ordinance of 1856 permits, which then begins. The values in either case shall be those which the cited tariffs designate.

(3) The goods which are interned after the 31st of December and thereafter shall pay at the time and in cash the duties of interning which the ordinance of 1856 establishes, and at once there shall begin to run the times which it indicates for the others which are properly called duties of importation and public improvements, which shall be paid on the day they fall due, in cash and not in paper.

(4) The goods imported and which may not have been introduced before the 31st of December next ought not to be considered as excepted from the foregoing provision, but ought to be treated at the time of interning in entire conformity to the tariff to which they belong according to the date in which it is made.

For the better understanding of this explanation, it is to be borne in mind that the interning for the commerce of the Free Zone is that of the importation for the other ports of the Republic; and so that for these ports the goods which have not been im-

ported can not be considered as in existence; neither can those goods which have not been interned be so considered for the Free Zone.

The Government is right when it proposed to re-establish credit in the custom-houses of the frontier and to equalize the commerce of the latter with the other ports of the Republic. In changing the tariff it has fixed a sufficient time within which the commerce can arrange its transactions and provide for the day when the ordinance of 1856 shall have full force and effect. If it does not take advantage nor wish to take advantage of the time, the fault is not with the Government, which is protected from all claim for damages and injuries by virtue of this indicated time.

(5) The total product of the duties of importation properly so called and those of interning are destined, first, to the payment of the custom-house employés; second, to the garrison; third, to the illustrious city council of Matamoros for what it has advanced to the latter; fourth, to the fiscal agents of the Government of the State in the district of the North for what they have loaned to the same also; fifth, to the various orders in favor of individuals for credits against the General Government, according to the order of the date in which they have been issued, and without taking into account those which have not been presented at the custom-house for its examination before the publication of the cited decrees.

(6) The monthly product of the duties cited in the foregoing explanation for no reason are to be distributed pro rata among the various claimants mentioned, but only to the custom-house employés and the garrison, as each one of these credits will be recognized when that which precedes it is satisfied in each month.

(7) The orders of payment in favor of individuals shall be paid in the order and turn which has been stated in the fifth explanation, and in the terms which they express according to the existing tariff, up to the 31st of December next—that is to say, there will be applied to their redemption the product of all the duties which, according to them, are devoted to their payment. But from the 1st of January forward all the orders pending shall be considered as a consolidated debt, which shall continue to be redeemed with the excess of the products of importation properly so called, and those of interning, according to the general ordinance of 1856, in the order and turn which pertains to it by the decrees and foregoing explanation which are to be observed, even when the importer is at the same time the holder of the order.

The injuries which the holders of the orders may perhaps pretend to feel on account of these dispositions are not to be regarded, because if their credits are rigidly examined, the $600,000 to which they amount to-day would in the final examination be reduced to less than a hundred thousand, but putting this aside and giving attention only to the real value or estimate which the paper had before these dispositions, which was from 14 to 10 per cent., it results that the total amount of their credit would be scarcely $70,000. To-day, on the contrary, in virtue of the decrees issued and these explanations, the paper has acquired its real value with the passage of time, according to the order in which it reaches its turn, and therefore there ought to be reason to expect to be placed in equality of circumstances.

The Government, which in dictating these measures has sought to conciliate all interests, thinks that the public and the commerce, the garrison and the custom-house employés of the frontier, will comprehend all the justice and equity which they contain besides their convenience.

To the people in general it has preserved all the advantages which have been attained and which will increase from day to day with the establishment of the Free Zone.

The commerce, in virtue of the differential decree, will be able to compete with all markets or places of commerce, with that of the other ports of the Republic, and it would be unjust and immoral to claim greater advantages. Each State or locality can allege exceptional circumstances, and at present, when the frontier is at peace, contemplating from afar the war which consumed the towns of the interior of the Republic, the frontier ought not to complain of its lot. Every privilege is odious, and the frontier has already one of much importance, as that of the Free Zone and the differential duty, of which it is a rare example in the mercantile world.

The garrison of the regular army will have its pay met and will be capable of discharging worthily its mission.

The custom-house employés, being well attended to in their salaries, will find the accounts more simple and facilitated, and their functions more in harmony with the other employés in the Republic.

On the other hand, the holders of paper ought to consider themselves favored because the value of the paper is increased in proportion as their turn draws near, and they may at once be assured that the value will not decline.

The whole commerce of the nation receives a great impulse because it is equalized, established upon a basis of sure calculation, and from to-day it shall not be the sport of every mercantile operation, in spite of the eventualities which the present revolution may occasion.

You will give due publicity to this note, accepting the consideration of my esteem.
God and liberty.
Tampico, October 29, 1860.

JUAN J. DE LA GARZA.
EMILIO VELASCO,
*Chief Clerk.*

The COLLECTOR OF THE CUSTOM-HOUSE IN MATAMOROS.

These are copies.
Mexico, June 17, 1878.

JESUS FUENTES Y MUNIZ,
*First Chief Clerk.*

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[Inclosure 4—Translation.]

*Decree establishing the Zona Libre.*

THE DEPARTMENT OF FINANCE AND PUBLIC CREDIT, FIRST SECTION.

*Circular No.* 93.

The towns of the State of Tamaulipas situate on the frontier with the United States enjoying the privilege of importing free of duty foreign goods destined to their consumption, according to the law of the 30th of July, 1861, by which the decree of the government of that State of March 17, 1858, was approved, which created the Free Zone in the said State; and it being the duty of the executive whilst it legally exists to adopt regulations for it in compliance with the duty imposed upon him by paragraph 1 of article 85 of the Constitution, for the purpose of avoiding the abuses which may be committed under cover of the concession and the injuries which in consequence of these abuses the other frontier towns, honest commerce, and the Federal Treasury are feeling, the President of the Republic has thought proper to approve the following regulation of the Free Zone:

CHAPTER I.—*Importation in the Free Zone.*

ARTICLE 1. Foreign importations through the port of Matamoros shall continue to be subject to the provisions of the tariff of the 1st of January, 1872, and the regulations of the custom-houses of the same date.

ART. 2. The first is, importations which are made in sail and steam vessels, through the other established custom-houses of the Free Zone, shall likewise be subject to the same provisions of the tariff and regulations.

ART. 3. In the importation of foreign goods through the frontier custom-houses of Matamoros, Camargo, Mier y Monterey Laredo, the following rules shall be observed:

I. The shippers to the custom-houses of the Free Zone of foreign goods destined to them shall be under the obligation to present to the Mexican consul or consular agent resident in the foreign town whence the merchandise proceeds three copies of the permit of importation to which paragraph IV of this article refers, in order that they may be certified in the following terms: "The preceding permit presented in (so many) useful leaves contain (so many) packages." The date, signature of consul or consular agent, and seal of the consulate. In the absence of consuls or consular agents this certification may be made by a consul of some friendly nation, or two established merchants.

II. The interested parties shall leave the duplicate of the petition with the consul or consular agent, they shall retain the triplicate, and the principal shall serve to protect the goods in their passage across the Rio Bravo.

III. For the purpose of avoiding for the shippers the obligation to present a manifest and consular invoice for each importation which is made, in compliance with articles 24 and 30 of the tariff of the 1st of January, 1872, they will be permitted at the end of each month to embrace their partial permits in a single manifest and consular invoice, preparing these documents in the terms provided in said articles 24 and 30 of the tariff, under the penalties which the same establish and according to the forms Nos. 1 and 2 of the tariff, stating the numbers of the partial permits.

IV. The shippers or commission merchants shall present to the Mexican consuls or consular agents, and in the absence of these to the consul of a friendly nation, and in his absence, to two established merchants, the three copies of the manifest and invoice for their examination, compared with the partial permits and their certification in the terms provided by article 38, of the tariff, collecting the respective receipts. This certification shall pay the consular duties fixed in said tariff. A copy of each

permit shall be sent to the department of finance, together with the third copy of the manifests and invoices in accordance with article 40 of the tariff.

V. Before the goods are passed the merchants or commission merchants shall enjoy the right which is granted to captains and consignees by the laws of December 31, 1874, and May 24, 1878, to correct and add to the partial permits already required, and to which paragraph II of this article refers, provided that this is done within twenty-four hours after the permit has been issued, and subject to the penalties fixed by said laws.

VI. For the importation of foreign goods, each one of the aforesaid custom-houses shall not permit more than one passage in any of the fords of the Rio Bravo existing in front of the respective custom-house gate.

VII. The importation shall be applied for according to the provisions of paragraph I of this article, by means of partial petitions, which the importers shall present in triplicate to the collector, one only of them being stamped with revenue-stamps of the value of 25 cents on each leaf of paper of common size, and on which shall be stated the number and marks of the packages, their weight and contents, and the other conditions required by article 24 of the tariff.

VIII. The collector shall place on the stamped petition the note of "Importation permitted, after comparison of the three copies by the auditing office, and the examination and dispatch of the inspector designated." The auditing office shall affix its approval, if satisfied; and if not, it shall give notice to the collector, in order that he may revoke his permit of importation and order the interested parties to withdraw the petitions.

IX. The auditing office shall keep a book, properly authorized, in which it shall register each one of the permits, numbering them consecutively and making a note of their date, name of the interested party, number of packages, general class of merchandise, and total weight.

X. The load and the permit shall be presented at the proper custom-house gate, in order that the guard in charge of it may make the comparison of the mark, countermarks, and number of the packages, noting the permit, after copying it and placing on it the following note: "Complied with and note taken on pages (so many) of the respective book." Date, signature, and seal of the guard of the custom-house gate. The guard shall at once send the permit with the load to the storehouses of the custom-house for its dispatch and examinatien, notifying officially the collector of the discrepancies which may appear, and giving him the observations which seem proper. The load shall go in charge of another guard or assistant of the custom-house gate, who shall take the permit and the observations of the guard in charge of the gate.

XI. The partial permits of which paragraph VII speaks shall expire within three days from their date in cases where the merchandise for which they were granted has not passed the Rio Bravo. The permit having expired without being complied with in whole or in part requires a new document with the same requisites as the first for the passage of the goods not imported in time.

ART. 4. The foreign goods having arrived whose permit has been obtained in conformity with the preceding article at the custom-house where it is to be imported, its examination shall take place in entire conformity with the provision of the tariff of custom-houses and other existing provisions.

CHAPTER II.—*Payment of duties on the importation of merchandise in the Free Zone.*

ART. 5. The examination and dispatch of merchandise both for frontier and maritime importations having been concluded, the liquidation in full of the duties shall be made by the auditing office according to the existing tariff, and the importers shall be required to pay in cash the municipal and package duties, the first being 1.37 per cent. upon the value of the importation and the second one-half cent. per pound, which are found tabulated in the rates of said tariff.

ART. 6. The collectors of the frontier custom-houses of the zone may accept bonds of the importers in order to secure the payment of the duties which are due until the auditing office can make the proper liquidation, said importers being permitted in such case to receive the goods after their dispatch. Without the delivery of these bonds the deposit of the goods in the storehouses of the custom-house will be required, or such part of them as may be required by the collector under his responsibility for a sum sufficient to cover the amount due.

CHAPTER III.—*Interning of merchandise proceeding from the Free Zone.*

ART. 7. The interning of goods imported into the Free Zone through the custom-houses established for foreign commerce by the existing laws shall be made in conformity with the following regulations:

I. The shipper shall present to the proper custom-house five copies of the petition drafted according to form No. 5 of the tariff, using in one of them stamps of the value

of 25 cents on each sheet of paper of common size, if the value of the goods exceeds $100, and 5 cents in case they do not exceed $100.

II. The presentation of the said documents shall be made to the collector, who shall number them consecutively and designate in them the inspector who is to make the examination and dispatch of the merchandise, taking account in a special book of the number which the document bears, name of the shipper, number of packages, amount of duties, point of destination, and the inspector designated for the dispatch.

III. The revision of the numerical operation contained in the petition, to which fraction I of this article refers, having been concluded by the inspector, and the respective proceedings placed in the proper book, the dispatch of the goods shall be made, observing the same formalities as at their importation, it being the duty of the shippers to present said goods in the warehouses of the custom-house.

IV. The dispatch being concluded, the liquidation of the duties, which shall be paid in cash by the importer, shall be revised by the auditing office, deducting the amount of the municipal and package duties, which were paid on importation according to article 5 of this regulation. The note being placed by the auditing office of "duties paid according to the existing tariff," and the document numbered consecutively by the employé, who takes note of it, in the book destined for that purpose, authorized by the department of finance, and in which shall be placed the signature of the importer, the auditor, and treasurer, or the employé who acts for them, the said collector shall place the note of "The interning permitted," and shall sign, attaching his rubric to the number of the document.

V. The requirements of the foregoing paragraphs being complied with, the document shall be presented to the commandant of guard, who shall place upon it the note of "Passed to its destination," sending it at once with the guard who is designated to accompany the load as far as the custom-house gate of departure, in which the guard in charge of it, after comparing the load with the document, shall take note in the proper book of the number of the document, name of the shipper, number of packages, their marks and countermarks, general class of the merchandise, value of the duties, name of the conductor and consignee, and point of destination, after which he shall place on said document "Complied with," date, seal, and leaf of book, signing for attestation.

VI. The packages which may be in excess or which may show some discrepancy, after the comparison has been concluded shall be officially sent by the guard to the custom-house for the proceedings which are respectively established by the tariff and the law of the zone of March 17, 1858, in cases of contraband and fraud.

VII. If the examination made by the guard of the custom-house gate shall prove the agreement of the load with the document, he shall deliver to the conductor the document or documents which protect the load, which in no case shall leave without them, under the penalties of the law of March 17, 1858.

VIII. If the load does not depart on the date of the document, the latter shall be returned to the custom-house by the guard which accompanied it, in order that the collector and auditor may place on it the following note, signed and sealed: Annulled because not used within its date."

IX. In order to issue a new document because the first was not used, five copies of the petition for interning will be required, which must pass all the proceedings, if they are found in perfect conformity with the one annulled, and shall be dispatched without issuing the new permit of entry which was required of the first; reference shall be made to the latter and the following notations shall be placed upon it, sealed and signed by the collector and auditor: "This second document issued because the first was not used within its date." Both one of the copies of this second document as well as the one annulled shall be added to the vouchers of the respective permit of entry.

X. Each custom-house shall keep a book authorized by the department of finance in order to take note of the second documents which are issued, stating in one leaf the number of the first document, its date, number of the item of entry stated in the day-book, value of the duties, names of the shipper, conductor, and consignee; number of packages, summary of the merchandise and points of destination; and in the other leaf the same facts concerning the second document. This book shall accompany the accounts, leaving in the archives of the custom-house a certified copy of it.

ART. 8. The custom-houses shall fix in the documents of interning a term within which the goods must reach their final destination, computing it according to the state of the roads, and having regard to the class of transportation which is employed, but which shall not be less than 5 leagues nor greater than 10 leagues per day.

ART. 9. When the point of destination is beyond the line of the counterguard, there shall be fixed in the document a point of transit where there is a section of said counterguard, in order that the load may be examined, according to the provisions of articles 68 and 69 of the tariff and regulation of that corps.

ART. 10. Of the five copies of the document of interning which the shippers are to present, according to article 7, the one stamped, as already ordered, shall serve to protect the load which is interned; another shall serve as a voucher of entry of the

chief account; another shall verify the copy of the same which remains in the archives; another the custom-houses shall send to the chief of the respective section of the proper guard where the load is to pass, and the last to the department of finance for its revision in the department of liquidation; it being necessary to make this remission necessarily by the mail immediately after the date of the documents issued, respecting those corresponding to the counterguard, and every fifteen days those to the department of liquidation.

ART. 11. When any part of the goods protected by the custom-house document are consumed in any point of the transit, the due annotation of this shall be made by the corresponding section of the counterguard, and if there is none in the place, by the Federal office established in it, according to the provision of article 74 of the regulation of custom-houses.

CHAPTER IV.—*Commerce in foreign goods between points situated in the zone.*

ART. 12. The traffic in foreign goods and the circulation free of duties in the towns embraced in the Free Zone shall be subject to the following provisions:

I. For the circulation of goods the shippers must present to the custom-houses five copies of the petition of circulation, in the same terms as prescribed for interning, in article 7 of this regulation, passing through the same proceedings except the payment of duties and modifying the notes by the collector and auditor, which shall be "free of duty according to the law of the 30th of July, 1861, for consumption in the zone," signed by the auditor, and "permits circulation," with the signature of the collector and seal of the custom-house, marking in the document the route which the load must follow without being permitted to leave the zone.

II. The persons in whose favor the permits of circulation within the Free Zone are issued shall be obliged to present a document issued by the collector of the custom-house or the chief of the section of the point of consumption, which shall state that the goods have reached the place of their destination.

III. The custom-houses mentioned shall require, in each case, a bond for the return document, within a brief term fixed to the satisfaction of the collector, in order that the goods which may pass beyond the bounds of the zone destined to the commerce of the same, and which may be consumed beyond them, in violation of the permit, shall pay the duties provided by the tariff.

IV. The foregoing bond shall be made effective by the custom-house where it is given, if in the time fixed in the document the return document which is to be issued by the custom-house of consumption is not received, certifying that the goods for consumption there have all arrived at their destination.

V. The documents of circulation shall in no case be given for more than one point and without stoppages, and in them their destination shall be stated.

VI. The custom-houses which issue documents for circulation and free consumption shall send by the mail immediately after the departure of the goods the quadruplicate of the document to the commandant of the counter-guard, in order that the latter may give orders to watch the loads so that they may not depart from the route which is stated in the document, which shall always be within the limits of the zone. Another copy of the document shall be sent to the department of finance every fifteen days.

VII. The custom-houses whence the goods depart for free circulation shall be careful, by the first mail, to give official notice to the custom-house of the point of consumption and to the section of the counter guard nearest to it, specifying in the notice the number of the document, the date, number of packages, estimated value of the duties, shippers, conductors, consignees, point of destination, and place fixed for their arrival, in order that they may exercise proper vigilance.

VIII. The custom-houses and custom-house section of the point of consumption within the zone, after the examination and dispatch of the goods, observing the same requisites as at their importation, shall give notice of the result to the custom-house of origin, and the section of the counter-guard shall be careful to reply to said custom-house within the time fixed in the document in regard to the occurrences respecting the load and the result of their vigilance.

IX. For the commerce of circulation between established custom-houses in the Free Zone which is carried on by the river, there shall be observed the requisites established in chapter 12 of the regulation of January 1, 1872, for the coast-wise trade.

CHAPTER V.—*Consumption in the places of the Free Zone where there are no custom-houses nor custom-house sections.*

ART. 13. The dispatch of documents for the consumption of foreign goods in the ranches situated in the Free Zone, shall be subject to the following provisions:

I. In order that the inhabitants of the ranches may take from the towns of the Free Zone where there are custom-houses or custom-house sections the goods for their

consumption up to the value of $30, they shall present themselves in the proper custom-house or custom-house section, soliciting the respective permit.

II. In each one of the custom-houses and custom-house sections embraced in the Free Zone, the collectors or chiefs of sections shall establish a desk in charge of an employé, who shall prepare the petitions of consumption for the inhabitants who may have the right of free consumption and can not prepare them for themselves, making them in duplicate and without compensation, requiring a stamp of 5 cents, which shall be affixed to one of the copies.

III. The collector or chief of the custom-house section shall designate an employé who shall make a note of the permits, in a book devoted to that purpose, authorized by the said collector, in which shall be stated the date, consecutive number which belongs to it, name of the interested party, value of the goods, and name of the ranch or destination. This employé shall cancel the stamps which are placed on said permit.

ART. 14. The custom-houses shall ask at once, and in the future every six months, of the City Council, a certified copy of the enrollment of the inhabitants of the ranches, in order that the employés who prepare the permits may be careful not to give them to other persons, nor to grant them successive times to the same person in a fixed period, in order to avoid the abuse which may be made of this privilege.

ART. 15. According to the provisions of the law, the goods shall incur the penalty of forfeiture, which, without the corresponding pass, are in default of the necessary requisites, may come to the custom-house gates or go beyond the towns of the Zone. Those goods will incur a similar penalty, which, although they have the respective pass, pass beyond the point of their destination.

ART. 16. The collectors and chiefs of custom-house sections shall grant to the owners of ranches situated in the Free Zone general permits for the free use of their carriages within the said zone, which permits shall be stamped with the revenue-stamp of the value of 25 cents, which the interested party must cancel in his respective petition, and which shall be delivered under a bond to the satisfaction of the collectors, on condition of paying the import duties in case the said carriages pass beyond the Zone.

ART. 17. Similar permissions shall be granted to the owners of cars and carriages who live in the towns of the Zone, in order to go to and return from the ranches, a bond being required for the payment of the proper import duties if the car or carriage shall pass beyond the Zone.

## CHAPTER VI.—*Exportation.*

ART. 18. Frontier exportation of all products, goods, and national manufactures, excepting Mexican antiquities, gold and silver in bullion and coin, and precious woods for construction, are free of duty in conformity with the tariff and subsequent laws, and shall be made by means of special permits, the petitions for which shall be presented in triplicate by the interested parties, placing on one of them stamps of the value of 35 cents for each leaf of paper of common size. These permits shall be numbered in consecutive order, and a note of them shall be taken in a book authorized for the purpose, stating the date, name of shipper, that of the consignee, number of packages, kind of goods, their value, and point of destination.

ART. 19. The exportation of gold and silver in bullion and coins which circulate in the towns of the Free Zone and respecting which proof of the payment of duty has not been made in the points of extraction shall be permitted by paying the corresponding duties after the liquidation, which is made by the auditing office at the foot of the petition, with the "V. B." of the collector and the note of "Paid" of the Treasury employé or cashier, citing the page and the item of the entry of the corresponding day-book.

ART. 20. When the exportation of gold and silver in bullion and coin is applied for whose duties have been paid in the point of extraction or in the custom-house, the proper liquidation shall be made on the petition, making the deduction which corresponds in the account of their origin, which the custom-houses shall keep in accordance with the provision of article 3 of the regulation of December 24, 1871. The auditing office shall fix the note of "duties paid on such a date and in such an office," marking the number of the respective permit, and the collector shall find the note of "exportation permitted after examination of the inspector and commandant of the guard," who, having found all correct, shall place, the first, the "Approved," and the second, "Passed to its destination," both signing for attestation. The official of the guard shall escort the treasures to the custom-house gate, where the official of that point shall take note in his book, placing "Approved," and seal and signature.

ART. 21. For the exportation of precious woods for construction permits are granted with similar requisites, after the payment of the corresponding duties.

ART. 22. The exportation of foreign goods which have been imported through the

Zone will not be permitted according to article 95 of the regulation of custom-houses without the previous payment of the duties of exportation of the tariff and the observance of the provisions of this regulation referring to interning.

ART. 23. Maritime exportation abroad and coastwise, made through Matamoros, shall be subject to all the provisions of the tariff and the regulation of the custom-houses and other relative provisions.

ART. 24. The passage by the American frontier of foreign or national goods whose value exceeds $10 shall take place with the formalities prescribed for exportation.

CHAPTER VII.—*Travelers and their baggage.*

ART. 25. The travelers who proceeding from abroad come into the towns of the Free Zone shall be permitted to import free of duties the goods and baggage mentioned in Chapter XVIII of the tariff of January 1, 1872, with the modification of the circulars of January 1, 1874, and December 18, 1876.

ART. 26. Travelers who may have arrived either by sea or by the fords of the Rio Bravo, in the towns of the Free Zone proceeding from abroad, when they go into the interior of the country, may intern free of duties their baggage and goods which they have brought with them in virtue of the privilege which the tariff and circulars cited grant them, obtaining from the custom-house or custom-house section the proper permit, which shall be granted to them in the term fixed in Chapter III of this regulation. On their petitions they shall place a stamp of 25 cents for each leaf of paper of common size.

ART. 27. The passage of baggage and persons which go from Mexican territory to the United States shall be free in accordance with Chapter XVII of the tariff.

ART. 28. Inhabitants or transient persons or the towns of the American frontier, who come only temporarily to the Mexican towns, shall not be permitted to bring with them goods which exceed the value of $10, without the formalities prescribed for importation.

ART. 29. The passage of a horse or carriage is permitted without any requisite or payment of duties, when the person who brings them only comes with the object of returning with the horse or the carriage on the same day or the following.

ART. 30. The inhabitants of the Free Zone who pass to the territory of the United States on a gelding or in a carriage, when they pass temporarily, shall not be required to comply with the requisites of exportation, nor shall any duties be collected from them for the said horses or carriages on their return to the Zone.

ART. 31. The collectors will permit, upon bond being given to their satisfaction, for the payment of duties of importation in petitions stamped to the value of 25 cents, that carriages and trains of cars may pass for a given time, in order to return to the left bank of the Bravo, or *vice versa*, making effective the bond from the expiration of the time, but without it being understood that they can be interned beyond the Zone. In case of abuse the bond shall be forfeited.

CHAPTER VIII.—*Contraband and its penalties.*

ART. 32. The cases of contraband in importation and exportation are as follows:

I. When they pass or seek to pass the river by other fords than those which are designated by the custom-houses.

II. When they pass or seek to pass the river by the designated fords without the proper permits, without the intervention of the employés of the custom-house gate and of the custom-house, or by night, or in unusual hours when the passage should be closed.

ART. 33. The contraband to which the preceding article refers shall be punished with the confiscation of the merchandise and of the vessels of all kinds, cars, carriages, and animals on which they are carried, provided they are found in the Mexican jurisdiction of the Rio Bravo, whether they be in the act of embarking, embarked, or disembarked.

ART. 34. Foreign goods destined for interning and free circulation shall incur the penalty of forfeiture, with the cars, carriages, and animals on which they are carried—

I. If they reach the custom-house gate without the proper documents.

II. If on departing from the town when the custom-house gates are outside of it, they change the route which directly corresponds to the departure according to the point to which the goods are destined.

III. If they are found beyond the custom-house gate without the required documents or seek to pass through it with documents of a date anterior to the date of departure.

IV. If the said documents are wanting in all or any of the requisites prescribed in this regulation.

V. If outside of the custom-house gates the conductors change the route pointed out in the document.

VI. If the goods are not presented at the section of the counterguard designated in the documents.

ART. 35. If from comparison which is made of the documents of importation, interning, and circulation of goods, it appears that there are packages in excess, the goods in this condition shall incur the penalty of forfeiture. A similar penalty is incurred for goods which bear duties of exportation and which are found in the same circumstances.

ART. 36. The substitution in quality or quantity discovered in the examination and dispatch of foreign goods, whether in their importation, interning, circulation, or exportation, shall be punished with a fine of double the full duties according to the provision of paragraph II of article 87 of the tariff, and not simply the municipal and package duty.

ART. 37. According to article 2 of the decree of March 17, 1868, the goods which are in the act of being embarked, or which have already been disembarked for other points than those which are designated, shall incur the penalty of forfeiture, imposing upon the conductors fines of from twenty to one hundred dollars and compelling the owners of the cargo, besides the loss of their goods and publication of their names in the newspapers, with an account of the fact, to close the establishments of commerce which they may have in the Republic.

ART. 38. The cases of fraud which occur in the importation, circulation, and exportation of goods shall be punished by analogy with the penalties indicated in article 90 of the existing tariff.

## CHAPTER IX.—*General provisions.*

ART. 39. The original permit of importation to which fraction III of article 3 of this regulation refers must be accompanied by the principal copies of the registry of frontier importation, which must be sent to the Treasury with the monthly account as proof of the items of entry of the package and municipal duties.

ART. 40. Of the two other copies of the registry, which should be made in conformity to articles 49 and 50 of the regulation of the custom-houses of January 1, 1872, as also of the maritime importations, one shall be sent to the department of finance for its revision in the department of liquidation, and the other shall remain to prove the account in the archives of the custom-house.

ART. 41. Of the petitions for frontier exportation, three copies shall be made each month; one of which shall be sent as proof of the account to the Treasury, another to the department of finance for its revision, and a third copy shall remain to prove the account in the archives of the custom-house.

ART. 42. The collectors shall not make the distribution to the persons entitled to participate in the confiscated goods or the products of the fine without the approbation of the department of finance of the project of distribution which shall be sent to it in each case, bearing in mind that the duties which the goods seized within the zone have to pay are only the municipal and package dues, it being necessary to deduct from the amount of the fine the 25 per cent. of the Federal tax, and the 2 per cent. hospital tax. When the goods are seized beyond the zone they shall pay all the respective duties, except in the case where the persons who seize them are the custom-house guards, or of the section, and they return the goods to the towns of the zone without being interned; in that case only paying the municipal and package tax, the Federal tax, and the 2 per cent. hospital tax.

ART. 43. The traffic of goods shall be permitted by the designated fords of the Rio Bravo and the custom-house gates from sunrise till 6 o'clock in the evening.

ART. 44. The military chiefs shall be under the obligation to furnish daily the guards which the collectors may request for the service of the custom-house gates, and the escorts of cavalry for the rounds or expeditions of the guards.

ART. 45. The custom-houses of the Free Zone shall regulate their proceedings in all that is not expressly determined by this regulation to the tariff and regulations of the maritime and frontier custom-houses of January 1, 1872, and later existing provisions.

ROMERO.

MEXICO, *June* 17, 1878.

No. 854.

*Mr. Romero to Mr. Bayard.*

LEGATION OF MEXICO,
*Washington, February* 11, 1888. (Received February 14.)

Mr. SECRETARY: I have had the honor to receive your note of yesterday, in which, referring to your previous note of the 3d ultimo, you inclose a communication from the governor of the State of Texas, accompanied by a report of Mr. J. M. Dean, district attorney of the thirty-fourth judicial district of Texas, concerning the complaint made by the Government of Mexico on account of the effects which are considered prejudicial to the inhabitants of Paso del Norte of the drain pipe that is in course of construction at El Paso, Texas, for the purpose of draining that city. Mr. Dean concludes his report by saying that he does not see how the health, welfare, or convenience of the inhabitants of Paso del Norte can be affected, either directly or indirectly, by the pipe in question.

In reply I have the honor to inform you that I shall at once transmit your aforesaid note and its inclosures to the Mexican Government for its information, and that it may adopt such decision in the case as it may think proper.

It may not be amiss for me to state, referring to the concluding portion of Mr. Dean's report, wherein he states that prominent persons at Paso del Norte share his opinion, and quotes Mr. Samaniego that although it is true that a newspaper published at El Paso, Texas, published a report of an interview with that gentleman, in which statements appeared similar to those made by Mr. Dean, those statements were subsequently rectified by Mr. Samaniego in the columns of El Centinela, of Paso del Norte, in its number of January 9, 1888.

Be pleased to accept, etc.,

M. ROMERO.

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No. 855.

*Mr. Romero to Mr. Bayard.*

LEGATION OF MEXICO,
*Washington, February* 14, 1888. (Received February 15.)

Mr. SECRETARY: In the note which I addressed to you on the 10th instant, relative to the free zone established in Mexico, I omitted to state two facts, which I think proper to mention here with a view to throwing additional light upon this matter and to dispelling certain prejudices which prevail in this country with regard to it, and which might affect the friendly relations between Mexico and the United States.

The first of these facts is that the free zone was not really an invention of the Mexican authorities of the State of Tamaulipas, but an imitation on a larger scale of similar measures which had been adopted more than five years previously by the United States Government for the benefit of that portion of its territory which bordered on Mexico.

The law of the United States Congress, of August 30, 1852, authorized the transportation to Mexico of goods sent in bond by certain routes specified in that law, and by all such others as the Secretary of the Treasury might see fit to authorize. This rendered it possible to send

large quantities of goods to the frontier towns of the United States without paying duties, and to keep them there in bond until a favorable opportunity offered for their exportation to Mexico.

As everything may be abused, the goods that were stored in the frontier towns of the United States were smuggled into Mexico. The United States Congress, when it passed that law of course did not intend to encourage smuggling to the detriment of Mexico, although such was, practically, its result; just as the governor of Tamaulipas at first, and the Mexican Congress afterwards, did not intend, in establishing the free zone, to facilitate smuggling to the detriment of the United States.

There was no such privilege within the territory of Mexico. All foreign goods, of whatever kind they might be, were subjected to the payment of duty when they were imported.

This difference of circumstances led the public men of Tamaulipas to believe that in order to place both sides of the frontier on the same footing in respect to commercial privileges, they needed to establish privileges similar to those which existed in the United States, although those which they did establish by the decree of March 17, 1858, were much more extensive than those which existed on the left bank of the Rio Grande.

The second fact which I desire to mention is a coincidence which is one of the causes that have induced the inhabitants of the Mexican frontier to attribute to the free zone more beneficial results than it has really produced, which circumstance has, perhaps, led to its maintenance and extension.

The situation of the Mexican frontier, up to the beginning of the civil war in the United States, was, as I have already remarked, one of poverty and even of misery, and formed a striking contrast to the other side of the Rio Grande. That war broke out almost simultaneously with the establishment of the free zone. The situation of the Mexican frontier thereupon changed very much, and welfare and prosperity crossed from the left to the right bank of the Rio Grande during that war, and for some time afterwards, owing to the general prostration which prevailed in the South. Superficial observers attributed that prosperity not to its true cause, which, in my opinion, was the aforesaid war, but to the free zone, and feeling convinced that it has been productive of extraordinary results, they naturally considered it as a panacea for all evils, and its extension as an imperative necessity for the country.

I hope that these brief explanations will serve to rectify some of the errors and prejudices which prevail in this country in reference to this matter.

Be pleased to accept, etc.,

M. ROMERO.

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No. 856.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, February* 21, 1888.

SIR: I have the honor to acknowledge the receipt of your two notes of the 10th and 14th instant, in which you are pleased to review the history and results of the "Zona Libre" in Mexico, with a view to dispelling certain misconceptions which you regard as prevalent in thi

country with regard to the free zone in question, and which misconceptions, you add, "may affect the good relations between Mexico and the United States."

As the representations you thus make are entirely voluntary, not growing out of any pending question or responding to any position diplomatically assumed by this Government in its relations toward Mexico, but being prompted solely by a spirit of good will and frankness, I do not feel called upon to regard them as an invitation to discuss the points you present or controvert any opinions you have expressed thereon.

An opportunity is afforded for a partial realization of the ends you inform me you have in view in addressing me these communications. As you will see by the annexed extract from the Congressional Record of the 17th instant, a resolution was adopted by the Senate of the United States on the 16th requesting the President to communicate to that body copies of all unpublished correspondence with the Government of Mexico or its representative here touching the Zona Libre.

Before submitting your notes to the President for decision as to the propriety of their transmission to the Senate in response to the resolution and in view of their voluntary character, I beg to be informed whether you have any objection to such disposition being made of them.

Accept, etc.,

T. F. BAYARD.

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[Inclosure.]

IN THE SENATE OF THE UNITED STATES,
*February* 16, 1888.

*Resolved*, That the President be requested, if in his opinion not incompatible with the public interest, to send to the Senate copies of all correspondence with the Government of Mexico or its diplomatic representatives not heretofore published, respecting the laws and regulations of that Republic relating to customs duties and their collection in the belt of border country extending with our frontier from the mouth of the Rio Grande to the Pacific Ocean, known as the Free Zone of Mexico.

Attest:

ANSON G. MCCOOK,
*Secretary.*
By CHAS. W. JOHNSON,
*Chief Clerk.*

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## No. 857.

### *Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,
*Washington, February* 22, 1888. (Received February 23.)

Mr. SECRETARY: I have had the honor to receive your note of yesterday, whereby you acknowledge the receipt of those which I addressed to you on the 10th and 14th instant, in reference to the Zona Libre established in Mexico.

In the first of those notes I endeavored to clearly express the purpose which moved me to address them to you, and, as you say with good reason, they were in the nature of voluntary communications on my

part, not having sprung from any question pending between our two countries, and in view of which the Government of the United States had diplomatically assumed a determinate position in its relations with Mexico, and they do not therefore possess the character of an invitation to discuss the points therein presented or controvert opinions which they express.

Believing that, as well in the public opinion of this country as in official quarters, there have prevailed mistaken ideas with respect to the Zona Libre in Mexico, which might at length in some manner affect the good relations which happily exist between our two countries, and having given careful and conscientious attention to this matter at the time when I was in charge of the treasury department of the United Mexican States, I deemed that I was doing a service to those good relations by giving a concise, simple, and at the same time exact account of an institution which has generally been believed in the United States to have been adopted in a spirit not very friendly to this country. The extract from the Congressional Record of the 17th instant, which you were pleased to send me with the note to which I am now replying, and which contains the part of the session of the Senate of the preceding day concerning the approval of a resolution whereby the President of the United States is requested to transmit to that body the correspondence not heretofore published in relation to this matter, offers, in effect, the occasion for the executive power to make my aforesaid notes public. Thanking you duly for your courtesy toward me in asking me if I have any objection to your submitting to the determination of the President the propriety of transmitting my notes to the Senate, I have to say that, even though for my part I find no inconvenience in such transmission, I shall be entirely satisfied with the decision you may reach in the premises.

Be pleased to accept, etc.,

M. ROMERO.

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No. 858.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, March* 12, 1888. (Received March 14.)

Mr. SECRETARY: I have the honor to inform you that I have received instructions from the Government of Mexico to call the attention of the United States Government to the fact that the decision adopted by the Treasury Department of this country, which bears date of August 1, 1887, and was published in the synopsis of the 1st of September following (No. 8368), relative to the importation of some Mexican tobacco from Paso del Norte, at El Paso, Texas, tends to increase the duty imposed by section 246 of the tariff of March 3, 1883, now in force in this country, which lays a duty of 75 cents per pound upon leaf-tobacco, provided that 85 per cent. be of the requisite size and of the requisite fineness of texture to be suitable for wrappers, and that one hundred leaves weigh less than a pound, and lays a duty of 35 cents thereon when its weight exceeds that quantity.

Before the adoption of the said decision collectors of customs in the United States observed the following system: They took as the unit for the collection of that duty a *tercio* or hand of tobacco, which appears

to be more in accordance with the provisions of the tariff, because otherwise the provision relative to the amount per cent. for the fixing of the amount of the duty seems to have no object. According to the aforesaid decision of the Treasury Department of August 1, 1887, the leaf itself has been adopted as the unit, the result of which is that even when the proportion of the tobacco that is to pay the heavier duty is less than 85 per cent. a part of each *tercio* or of each hand pays that duty and another the less duty.

The Government of Mexico thinks that it would be more in accordance with the text of the tariff and with justice to levy the duty upon tobacco according to its mean weight, and not to take the leaf unit as a basis; and with a view to the development of the trade in this article between the two countries, which must prove mutually advantageous, it has instructed me to invite your attention to this matter, in the hope that the subject will be re-examined by the Treasury Department of the United States.

Be pleased to accept, etc.,

M. ROMERO.

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No. 859.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, March* 13, 1888. (Received March 14.)

Mr. SECRETARY: I have the honor to inform you, referring to our correspondence relative to the tonnage dues levied by the collector of customs at San Diego, California, upon the Mexican vessel *Monserrat*, that my Government has instructed me to state to that of the United States that, according to the laws in force in Mexico, no higher tonnage dues are collected from United States vessels than from those of any other nation with which the Government of Mexico has concluded treaties of friendship, commerce, and navigation; and that there is consequently no foundation for the impression which seems to prevail in the Treasury Department of the United States, that discriminating duties are levied on United States vessels in Mexico.

Be pleased to accept, etc.,

M. ROMERO.

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No. 860.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,
*Washington, March* 19, 1888. (Received March 19.)

Mr. SECRETARY: I have the honor to state to you, with reference to our correspondence in relation to a resolution approved by the Senate of the United States on the 5th of May, 1886, whereby the President was recommended to negotiate with Mexico an arrangement to facili-

tate the passage, for the purpose of pasturage, across the border line, of the cattle of one country to the territory of the other, that recently a case has occurred in the district of Mier, in the State of Tamaulipas, in which the Mexican citizen Trinidad Barrera had several calves belonging to him, of less than one year old, seized by the United States customs officers at Roma, Texas, on the ground that they had passed from his ranch, called El Refugio, to the territory of the United States to feed, and that import duties upon them were collected of him, and he was not permitted to recover them and take them back to Mexican territory without previously giving bond for the payment of such duties until the Secretary of the Treasury of this country should reach a decision in the premises.

This incident demonstrates the necessity, either that there should be an arrangement between the two Governments, or that such legislative measures as each of them may deem proper should be adopted, to the end of meeting, in either way, the necessities of the case, and taking into account the rights and interests of the two countries, so as to avoid injury to their respective citizens.

In recent numbers of the Congressional Record, I have observed that bills have been introduced in the Senate of the United States during the present session, providing that cattle belonging to citizens of this country which may have passed over into Mexico to graze shall, on their return to this territory, not be subject to customs duties, and inasmuch as this privilege, if adopted, would still be insufficient to meet the needs of the case, I deem it opportune to suggest to you the expediency of providing further that neither shall the introduction of Mexican cattle which may cross over into the United States to graze render them liable to duties.

Otherwise, the Mexican cattle-raisers who live on the frontier would find themselves in a worse situation than at present, and the Mexican Government might find itself constrained to adopt measures for their protection, the enforcement of which might occasion to the citizens of this country difficulties similar to those which the Mexican cattle-raisers now encounter.

Be pleased, etc.,

M. ROMERO.

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No. 861.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,
*Washington, March* 19, 1888. (Received March 19.)

Mr. SECRETARY: The commandant of the second zone of the armed revenue guard of the United Mexican States reports to the secretary of the treasury, in a telegram of the 5th instant, that the chief of the section of Janos informed him that on the 29th of February ultimo five armed and mounted individuals made their appearance at his office, three of them being sheriffs of the Territory of Arizona, and the other two Papago Indians, and stated to him that they were in pursuit of three American bandits who had robbed a train on the Southern Pacific Railway, and who, they said, had taken refuge in Mexican territory. The chief of the section of Janos took the said individuals into

custody because they carried no permit of the Mexican Government to enter the country in pursuit of criminals.

The President of the United Mexican States, on being informed of the occurrence, ordered that the individuals aforesaid should be set at liberty after taking from them their respective arms.

Señor Mariscal has given me instructions to inform you of these circumstances, and to communicate to you at the same time that the arms of those individuals will be returned to the person whom the Government of the United States may be pleased to designate for the purpose.

Be pleased, etc.,

M. ROMERO.

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No. 862.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, March* 20, 1888.

SIR: Acknowledging receipt of your note of January 26 last, in relation to the collection of the sum of $849 as tonnage dues from the steamer *Monserrat* at San Diego, California, I have the honor to inform you that a communication has been received from the Secretary of the Treasury, to whom a copy of your note was referred, to the effect that the tonnage tax of $1 a ton imposed on the *Monserrat* and amounting to the sum above stated, was properly collected under sections 4219 and 4225 of the Revised Statutes of the United States.

An examination of these sections in connection with section 14 of the act of Congress of June 26, 1884, as amended by section 11 of the act of June 19, 1886, to the former of which acts you refer, fails to show that this later legislation repealed the provisions of the Revised Statutes in regard to the imposition of tonnage dues on foreign vessels not specially exempted by law or treaty from the tonnage dues imposed on vessels not of the United States.

It may be observed that section 14 of the act of June 26, 1884, imposes a tonnage tax of 3–15 cents, in lieu of the tax of 30 cents a year theretofore imposed under section 4219 of the Revised Statutes, on vessels coming from the regions described in the act. It then repeals sections 4223 and 4224 of the Revised Statutes, but not section 4225; and repeals only "so much of section 4219 of the Revised Statutes as conflicts with" the new provisions which, in the opinion of the Treasury Department, do not affect the imposition of tonnage dues on vessels not of the United States either under section 4219 or section 4225 of the Revised Statutes.

Accept, etc.

T. F. BAYARD.

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No. 863.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, March* 23, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, in which you communicate to me the report received from the commanding officer of the revenue guard at Janos, in the State of

Chihuahua, of the arrest at that place, on the 29th ultimo, of three armed sheriffs of the Territory of Arizona, and two accompanying Indian scouts, who announced themselves to be in pursuit of three American fugitives who had robbed a train on the Southern Pacific Railway, and inform me that, by order of the President of the United Mexican States, the men so arrested have been released, their arms being retained for delivery to whomsoever the Government of the United States may designate to receive them.

The Department has been advised of the arrest of the men in question, one of whom was the United States marshal for Arizona, and another the deputy United States marshal, and a full report of the occurrences is awaited.

I shall take pleasure in communicating copy of your note to the governor of the Territory of Arizona for his information and further report; and copy will likewise be furnished to my colleague, the Attorney-General, under whose Department the arrested officers are.

Accept, etc.,

T. F. BAYARD.

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No. 864.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, March* 24, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, in which, with reference to the question of the passage of the frontier line by grazing cattle belonging to citizens of either country, and to the proposal made in the Senate of the United States, May 5, 1886, for an arrangement between the United States and Mexico to prevent friction in this regard, you inform me of a recent case in the district of Mier, Tamaulipas, where several yearling calves belonging to Trinidad Barrera, a Mexican citizen, which had strayed into Texan territory to feed, were held for duties by the United States customs authorities at Roma, Texas, and the return of the calves to their owner, for re conveyance to Mexico was not permitted until bond was given for the payment of import duties, to await the decision of the Secretary of the Treasury in the premises.

As this incident touches a pending decision of the Secretary of the Treasury, I have deemed it proper to communicate a copy of your note to my colleague, suggesting to him that the questions involved may be examined in the light of the *bona fides* of the owner of the calves in question, and that any proof of absence of intent on his part to bring the calves into the United States may be duly appreciated in reaching an equitable conclusion. It would doubtless aid a favorable decision if I were enabled to inform the Secretary of the Treasury that were the case reversed the customs laws and regulations of Mexico would not subject to import duties cattle straying, under the circumstances you mention, from the territory of the United States into Mexico.

Your note goes on to say that in this incident of Señor Barrera's yearlings you find demonstration of the need of an arrangement between the two Governments, or of legislative measures, touching the passage and return of grazing cattle on the border, and in this relation you advert to the insufficiency, in your judgment, of a bill now pending in the

United States Senate which provides "that cattle belonging to citizens of this country which may have passed over into Mexico to graze shall on their return to the territory of the United States not be subject to customs duties" and recommend the further provision "that neither shall the introduction of Mexican cattle which may cross over into the United States to graze render them liable to duties."

I shall take an early occasion to communicate copy of your note to the Committee on Finance, to which Senate bill No. 2034 was referred on the 25th ultimo, and it would give me much pleasure to inform the committee that a rule similar to that which you suggest prevails on the Mexican side, or would be adopted there by way of equitable reciprocity, if the Congress of the United States should take action in that sense.

Recurring, however, to the proposal contained in Senate resolution of May 5, 1886, to which you refer, I beg to express my willingness to compare views with you touching a formal arrangement between the two Governments to meet the case.

The object being to facilitate the return of stray cattle from either side of the frontier line, and at the same time prevent indiscriminate pasturage of Mexican and American cattle on either side of the boundary, or reciprocal agreement whereby such straying cattle may be restored within a reasonable time to owners domiciled in the country from which they stray on simple proof of such domicile and ownership and of the fact of straying, would suffice to meet the case. It would, however, require the adoption of identical or similar legislation by the two countries, and to this end the arrangement might take the form of a diplomatic understanding, by exchange of notes or formal protocol, to be referred to the respective Congresses for legislative action, the agreement to become effective on the exchange of notification that such legislation had been adopted. I shall be pleased to consider any detailed plan you may submit to me with this object, or any further views on the subject you may deem it expedient to offer to me.

Accept, etc.,

T. F. BAYARD.

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No. 865.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*New York, March* 25, 1888. (Received March 29.)

Mr. SECRETARY: I have had the honor to receive your note of yesterday, whereby you reply to that which I addressed to you on the 19th instant, relative to the crossing of our frontier for the purpose of grazing by cattle belonging in either of the two countries, and to the proposal approved by the Senate of the United States May 5, 1886, for the conclusion of an arrangement between Mexico and the United States for the prevention of difficulties growing out of such crossing.

I am glad to see by your note, to which this is a reply, that you have considered as acceptable the views suggested in mine of the 19th instant for the partial avoidance of such difficulties, and that you therefore propose that stray cattle crossing the frontier may be returned within a reasonable time to their owners domiciled in the country from

which they have strayed on simple proof of such domicile and ownership and of the fact of straying.

You are consequently pleased to inquire of me whether the Government of Mexico would be willing to adopt a similar arrangement in case of its adoption by the United States; and, referring to the case of Trinidad Barrera, of which special mention was made in my note of the 19th instant, you are pleased to inform me that a copy of said note has been sent to the Secretary of the Treasury with a recommendation that the return of the cattle be permitted without payment of duties, and inquire of me at the same time whether the Government of Mexico would be willing to adopt a like regulation in cases similar to that of Barrera, in which cattle belonging to citizens of the United States cross over into Mexico.

I have the honor to inform you in reply to both these inquiries that in division 7 of section 1 of the tariff of the general ordinance concerning maritime and frontier custom-houses in the United States of Mexico, of March 1, 1887, among the articles that are not subject to duty on being imported into Mexico are "live animals of all kinds except gelded horses." In consequence of this provision the crossing of cattle from territory belonging to the United States to Mexican territory *via* the frontier, or their importation by way of Mexican ports, is not liable to any duty, so that it can not give rise to the difficulties which are occasioned by the crossing of Mexican cattle to the territory of the United States, and to which I referred in my note of the 19th.

In my note of May 20, 1886, I took occasion to specify the bases which, in my judgment, it would be proper to adopt for the conclusion of an agreement between Mexico and the United States, designed to avoid such difficulties, which are substantially in accord with the views contained in your note of yesterday.

I shall at once transmit your said note to my Government for its information, and shall request it to give me such instructions as it may think proper in relation to this matter. As soon as I receive such instructions I shall advise you, in the hope that we may be able to reach an agreement that will hereafter prevent those difficulties, which are now of daily occurrence on the frontier, and which tend to keep up a constant excitement that can not fail to affect the amicable and neighborly relations between the two countries.

Be pleased, etc.,

M. ROMERO.

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No. 866.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, March* 30, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, in which, after referring to previous correspondence in relation to the duties levied on the Mexican vessel *Monserrat* at San Diego, California, you state that you had been instructed to inform this Government that, according to laws in force in Mexico, no higher tonnage dues are collected from United States vessels in Mexico than are charged on the vessels of any other nation with which the Government of Mexico has concluded treaties of friendship, commerce, and navigation, and

that there is consequently no foundation for the impression which seems to prevail at the Treasury Department of the United States that discriminating duties are levied on United States vessels in Mexico.

Before communicating further with the Treasury on the subject of this correspondence, I have the honor to suggest that the term "discriminating duties," which is found in the sections of the Revised Statutes lately under consideration, is more extensive in meaning than your note seems to imply. It is construed as embracing not merely discriminating duties as between the vessels of two foreign countries, but also differential treatment as between national vessels and those of a foreign country. The laws of the United States imposing discriminating duties apply to the latter as well as to the former kind of discrimination.

The conditions on which discriminating duties are suspended in the United States are found in section 4228 of the Revised Statutes. This section provides that, upon satisfactory proof being given to the President by the Government of any foreign nation that no discriminating duties of tonnage or imports are imposed or levied in the ports of such nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States or from any foreign country, the President may issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued so far as respects the vessels of such foreign nation, and the produce, manufactures, or merchandise imported into the United States from such foreign nation or from any other foreign country, the suspension to take effect from the time of such notification being given to the President and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued, and no longer.

Under these provisions numerous proclamations have been issued, of the last of which, in reference to Spanish vessels and their cargoes, I have the honor to inclose, for your information, a copy.*

Accept, etc.,

T. F. BAYARD.

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No. 867.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, March* 30, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, whereby, under instructions from your Government, you call attention to the Treasury Department's decision of August 31, 1887 (No. 8368), relative to the importation of some Mexican tobacco from Paso del Norte, at El Paso, Texas, which, you aver, tends to increase the duty now imposed under the tariff act of March 3, 1883, upon leaf tobacco, of which 85 per cent. is of suitable size and fineness for wrappers and of which 100 leaves weigh less than 1 pound, by substituting the leaf as the unit of appraisement instead of the *tercio* or "hand" of tobacco, as formerly. The result, you say, is "that even when the pro-

* Printed pp. 1034, 1035 F. R., 1887.

portion of the tobacco that is to pay the heavier duty is less than 85 per cent. a part of each *tercio* or of each 'hand' pays that duty" (75 cents a pound), "and another the lesser duty."

You accordingly suggest that it would be more in accordance with the text of the tariff and with justice to levy the duty upon the mean weight of the tobacco, and not to take the leaf unit as a basis, and invite re-examination of the matter by the Treasury Department.

In reply, I have the honor to state that, having had recent occasion to confer with my colleague, the Secretary of the Treasury, touching representations from another quarter in every respect identical with those you make, he has replied that the ruling of the Department, No. 8368, to which you refer, was prescribed after a very thorough and careful consideration of all the questions involved, and that such ruling is, in his opinion, in accordance with a proper and reasonable construction of the applicable provision of the statute and with the interpretation thereof by the Attorney General, who, in an opinion dated April 23, 1884, advises that "nothing is said in the act as to packages or bales or any other commercial form in which the merchandise is imported," and that "wholly irrespective of such commercial form, the duty is levied directly upon the article rated by its qualities for certain sort of consumption; *i. e.*, into wrappers." Such a ruling had the effect to give force to both provisions of the tariff schedule found in paragraphs 246 and 247, in that it requires the assessment of duty at the rate of 75 cents per pound on leaf tobacco, of which 85 per centum is of the requisite size and the necessary fineness of texture to be suitable for wrappers, and of which more than 100 leaves are required to weigh a pound, and a duty of 35 cents per pound where the leaf tobacco does not comply with these conditions.

I need scarcely assure you that the sole purpose of the rulings of the Treasury Department in this regard is to carry out the requirement of the law, and not with any intention or desire to discriminate against or favor any particular importations of leaf tobacco. As you are probably aware, a measure is now pending in Congress for the revision of the existing tariffs, one of the features of which, as reported from the committee in charge, is the equalization of ordinary leaf and wrapper tobacco at uniform rates, irrespective of the use to which the leaf may be put, or of the percentage of the leaf itself available for such use.

Accept, etc.,

T. F. BAYARD.

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No. 868.

*Mr. Romero to Mr. Bayard.*

[Translation.]

MEXICAN LEGATION,
*Washington, April* 11, 1888. (Received April 11.)

Mr. SECRETARY: Referring to my note of the 19th of March last past, in relation to the detention at Janos, in the State of Chihuahua, of a band of citizens of this country who had entered the territory of Mexico in pursuit of American bandits who had attacked a train on the Southern Pacific Railway, I have the honor to inform you that I have received instructions from Señor Mariscal, the secretary of foreign relations of the United Mexican States, to communicate to you that to the

person whom the Government of the United States may see fit to commission to receive the arms of the individuals aforesaid, will also be delivered the horses belonging to them, and which were taken from them at Janos.

Be pleased to accept, etc.,

M. ROMERO.

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No. 869.

*Mr. Bayard to Mr Romero.*

DEPARTMENT OF STATE,
*Washington, April* 16, 1888.

SIR: I have the honor, having regard to my note of December 17, 1887, to apprise you of the receipt of a letter from the Hon. William F. Vilas, Secretary of the Interior, dated the 11th instant, covering a report (a copy of which is inclosed) from the Acting Commissioner of the General Land Office, dated the 15th ultimo, relating to the private land claim in New Mexico of Mr. J. Escobar y Armendariz, known as the Santa Teresa grant.

From this report it will be seen that this grant was acted upon by the surveyor-general of New Mexico, under the provisions of the act of July 22, 1854 (10 Statutes, page 308), and that his recommendation in relation thereto was transmitted to Congress December 11, 1880, where the matter is yet pending, awaiting the action of that body. "While thus pending, it would be," says Mr. Vilas, "improper for this Department (Interior), if it had the power, to take action in relation to the same by ordering a survey as requested." He also remarks in regard to the report of Surveyor-General Julian, complained of, that it was a communication from an official of his Department in relation to the validity and extent of said grant, which it was entirely proper to transmit to Congress for its information.

Accept, etc.,

T. F. BAYARD.

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[Inclosure.]

*Mr. Stockslager to Mr. Vilas.*

DEPARTMENT OF THE INTERIOR,
*Washington, D. C., March* 15, 1888.

SIR: I have the honor to acknowledge the receipt, by departmental reference, of letter from the Department of State, dated December 17, 1887, covering a copy of a note from the Mexican minister resident, and also the petition of a Mr. J. Escobar y Armendariz, a Mexican citizen, in relation to his title to a private land claim in New Mexico, known as the "Santa Teresa" grant.

These papers are also accompanied by the brief of Hon. J. W. Foster, of this city, bearing upon the title of said J. Escobar y Armendariz to said grant, and you direct this office to "report in duplicate and return papers."

The facts in the case are, generally, as set forth in the copy of petition referred to, as well as in the accompanying brief of Mr. Foster, and may be epitomized as follows (so far as they are authenticated by the transcript and the report of the surveyor-general of New Mexico, dated December 11, 1878), viz:

The grant is claimed to have been made to one Francisco Garcia, prior to the year 1790, by the Spanish authorities of what was then New Biscay, and now the State of Chihuahua.

The original muniments of title are alleged to have been lost or destroyed during

the occupation of El Paso del Norte by the United States troops in 1846. The land claim is situate on the west bank of the Rio Grande del Norte, in the county of Doña Ana, New Mexico, and in that portion thereof embraced by the Gadsden purchase.

By the sixth article of the treaty with Mexico, dated December 30, 1853, and which included the Gadsden purchase, it was provided that—

"No grants of land within the territory ceded by the first article of this treaty bearing date subsequent to the day—25th of September—when the minister and subscriber to this treaty on the part of the United States proposed to the Government of Mexico to terminate the question of boundary will be considered valid or be recognized by the United States, or will any grants made previously be respected or be considered as obligatory which have not been located and duly recorded in the archives of Mexico."

Nearly nine months prior to this limitation in the treaty the grant claimants made application to the judicial authorities at El Paso del Norte for perpetuation of title. The application and proof submitted seem to have been in accordance with the laws and customs of the State of Chihuahua, in whose jurisdiction the claim in question was situate.

In pursuance of this application and upon the evidence of several witnesses showing the previous existence of the grant to the tract claimed, the loss of the title papers during the American occupation of El Paso del Norte in 1846, and the occupancy of the land by the grantee and his heirs from time immemorial, the second civil justice of the cantonment of Bravos, Bentura Lopez, rendered a decree declaring the property to belong to José Maria Garcia and his co-heirs under and by virtue of the grant to Francisco Garcia, their father.

It also appears that this same jurisdiction, on the 16th of January, 1853, went in person upon the claim, and in the presence of witnesses as to the old boundaries and monuments proceeded to relocate the grant and place claimants in possession by certain legal formalities.

The transcript of these proceedings was presented to the surveyor-general as the basis of the claim. It was duly authenticated as required by the laws of the United States relative to documents offered in evidence in the United States courts from foreign countries; and other corroborative evidence of the genuineness of the grant being on file in his office, he proceeded to rule as follows:

"The evidence of occupation of the tract by Francisco Garcia, and after his death by his widow and heirs for a continuous period from prior to, or about, the year 1790 until recently, raises a strong presumption in favor of the validity of the grant, independent of the documentary evidence referred to, and it is believed to be a good and valid grant. The claim is therefore approved to the heirs and legal representatives of Francisco Garcia and their assignees, according to the boundaries as herein set forth, and as described in the resurvey or act of possession of January 16, 1853, executed at El Paso del Norte by Bentura Lopez, second justice and of first instance of the cantonment of Bravos."

The papers, in duplicate, were forwarded to your Department for transmission to Congress on the 7th of December, 1880, and, as will appear from your records, were transmitted to Congress December 11, 1880, where the case is still pending, awaiting the action provided for in eighth section of the act of July 22, 1854, U. S. Statutes, v. 10, p. 309.

It appears from the records of this office that on the 3d of December, 1885, Hon. George W. Julian, then and at present United States surveyor-general of New Mexico, addressed a personal note to Hon. William A. J. Sparks, former Commissioner, desiring to know what policy he should pursue in respect to the examination of private land claims which had been reported by his predecessors. On the 11th of December, 1885, Mr. Sparks replied:

"In my annual report I have recommended that all claims heretofore transmitted to Congress *pro forma*, through this office, be remanded for re-examination. Should any cases reported upon by your predecessors be brought to your attention, in which it appears that an investigation is desirable in the public interest, I know of no objection to your making such investigation, but, on the contrary, think it ought to be made for the information of this office and Congress.

"Any supplemental reports sent up by you will be transmitted to Congress for consideration."

Accordingly on the 16th of October, 1886, Surveyor-General Julian made a supplemental report on the grant under consideration, and after stating the facts substantially as already submitted, and quoting the sixth article of the Gadsden treaty of December 30, 1853, *supra*, reported as follows:

"According to this language, as I understand it, no grant of land comprised within the territory covered by this treaty can be recognized by the United States as valid, whether the date of the grant be prior or subsequent to the time specified, unless the grant shall have been duly recorded in the archives of Mexico. As there is no proof that this was done I can not recommend the approval of this claim by Congress, nor

could I do so if the grant had been produced and shown to be genuine, because the record of it in the archives of Mexico is made an indispensable condition of title. Neither can I recommend the recognition of an equitable claim. In my opinion, it could not be founded on a grant which is made invalid by a treaty between the United States and Mexico. Congress is precluded by this treaty from respecting the grant or considering it obligatory, and the equity which the case would otherwise have presented is lost."

This report was forwarded to the Department, with the concurrence of Commissioner Sparks, for submission to Congress, on the 4th of May, 1887.

It appears that the petitioner is a claimant of the aforesaid grant by purchase from the legal representatives of the original grantee, and he prays you for a report to the following effect, in brief:

First. That the documentary evidence on file in the surveyor-general's office, and before Congress, shows a good and valid title under the laws, usages, and customs of Mexico, etc.

Second. That Congressional action be expedited looking to the final confirmation of the grant.

Third. That a resurvey of the grant be made, corrective of the survey thereof now before Congress.

As regards the first prayer, I deem it sufficient to say in addition to the foregoing statements that, in my judgment, no further expression of opinion on the part of the Executive is called for in advance of any indication by Congress of a desire therefor. As regards the second, that what it is proper for Congress to do, and when to do it, is a matter for itself to determine, and I see nothing remaining to be done by which the Department can expedite the action of Congress.

As to the third, it might be proper to state that the survey of the grant now before Congress is merely a preliminary one; and if Congress should confirm the grant by the boundaries set forth in the documentary evidence on file in the case, the survey must be made to conform thereto. In other words, the survey must correspond with the terms of the confirmatory act, whatever they may be, should Congress see proper to confirm the grant.

Moreover, there is no appropriation at this time for the survey of unconfirmed private land claims in New Mexico.

The papers referred are herewith returned.

Very respectfully, etc.,

S. M. STOCKSLAGER,
*Acting Commissioner.*

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## No. 870.

### *Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, April* 28, 1888. (Received April 30.)

Mr. SECRETARY: I have the honor to inform you that I submitted to the Government of Mexico your note of the 24th ultimo relative to the passing of cattle across our frontier from one country to the territory of the other and that I have now been authorized, with a view to the avoidance of the difficulties which have hitherto arisen in connection therewith, to submit to the United States Government a draught of an arrangement with respect to the crossing of cattle, which is designed to prevent the occurrence of the principal difficulties connected with the matter in question.

I have consequently prepared the inclosed draught, which is based upon the views expressed in my notes to your Department on this subject, bearing date of March 20, 1886, and March 25, 1887, wherein you will find an explanation of several of its stipulations.

If you think proper to make any additions to, or modifications in, the inclosed draught, I will thank you to communicate to me your views with regard to it, so that if they are acceptable to the Government of Mexico we may reach an understanding on this subject.

Be pleased to accept, etc., M. ROMERO.

[Inclosure.—Translation.]

*Draught of an arrangement.*

The United States of Mexico and the United States of America desiring to put an end to the difficulties which have arisen in connection with the crossing of cattle from one to the other side of the boundary line between the two countries, and with the provisions of their revenue laws, have agreed upon the following articles:

ARTICLE I.

The importation, properly so called, of cattle across the frontier from one country to the other, for the purposes of trade, shall be subject to the laws and regulations now in force, or that may hereafter be adopted by either country on this subject, and it shall consequently take place *via* such points as either country may have declared open to foreign commerce.

ARTICLE II.

The importation of cattle is authorized from one country into the territory of the other, across the frontier, for purposes of trade, *via* points that have not been declared open to the import trade, and where, consequently, other kinds of merchandise can not now be imported, provided, however, that the owner of the cattle give notice, eight days beforehand, to the custom-house nearest to the place where the cattle are to cross, in the country in which the importation is to take place, for the information of said custom-house and in order that the cattle may be entered there.

ARTICLE III.

The crossing of cattle is likewise authorized, at any point on the frontier, from one country to the territory of the other, for the purpose of grazing, on the following conditions:

(1) The owner of the cattle shall give notice, eight days beforehand, to the proper custom-house of the country to which they are going to graze, of the number of head of cattle that he intends to drive across, together with their marks and other things that may serve to identify them, and of the time during which they are to graze.

(2) Before the expiration of the time stated in the application for a permit the owner of the cattle shall again address the collector of customs, eight days beforehand, notifying him of the date when he intends to have the cattle driven back to the country whence they came.

(3) The time during which the cattle of one country may graze in the territory of the other shall not exceed six months. If at the expiration of that time the cattle do not return and the requirements of the above conditions are not fulfilled they shall be considered as having been imported for commercial purposes and shall, consequently, be liable to the payment of the regular duties.

ARTICLE IV.

When cattle of one country cross to the territory of the other of their own accord, or without the knowledge of their owner, either in search of pasture or as estrays, they shall pay no import duty, provided that the following requirements be fulfilled:

(1) That as soon as the owner of the cattle has knowledge of the fact he repair to the nearest custom-house of the country to whose territory they have crossed and make a declaration of what has taken place.

(2) That he prove his ownership of the said cattle by the marks which they bear, and by such other signs as may serve to identify them.

(3) That no evidence be presented which, in the opinion of the collector of customs, invalidates the aforesaid claim of ownership.

(4) That not more than  days have passed since the date of the crossing of the cattle until the date of the presentation to the collector of customs, by the interested party, of the application for return.

(5) When the return of the cattle shall have been ordered by the collector of customs, such return shall take place without payment of any duties whatever.

ARTICLE V.

When cattle belonging in one country have been stolen and driven by the thieves to the territory of the other, and subsequently recovered by the proper authorities, they shall be held for return to their lawful owner when he shall appear, in which case no duties shall be payable, and no charges save for the keep of the cattle.

ARTICLE VI.

When more than one person shall claim to be the owners of cattle driven across the frontier by thieves, or when the collector of customs shall have reason to doubt whether the person who claims them is the lawful owner, a certificate from a competent magistrate in the place of residence of such claimant shall be considered as evidence of the ownership of the cattle.

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No. 871.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, May* 18, 1888.

SIR: In reply to your note of the 28th ultimo, which has had the consideration due to the importance of your propositions, I have now to acquaint you of the result of the preliminary examinations, in conjunction with the Department of the Treasury, of the draught arrangement you submitted intended to regulate the reciprocal passage of cattle on the border between the United States and Mexico.

The draught you submit to me substantially enlarges the scope of the measures now pending before Congress with regard to cattle straying from the United States into Mexico and thence returned; but upon examination of its several features, my colleague, the Secretary of the Treasury, perceives no particular objection to any of the articles thereof, excepting, perhaps, Article III, which provides for the temporary importation, free of duty, of cattle from either country into the territory of the other for the purpose of grazing during a permitted period, and perhaps, also, the sixth article, as hereinafter indicated.

As to Article III, it is suggested, as a measure for the better protection of the customs revenues, and therefore one equally commending itself to both parties, that due entry of the cattle so brought into the respective country, for grazing purposes, shall be made at the custom-house nearest to the point of crossing, the cattle to be at the same time examined and appraised by the customs officers, and a bond, with sufficient sureties, to be taken from the owner, for the exportation of the animals within six months from the date of the importation or the payment of duties thereon.

As to Article VI, which relates to cattle that may be stolen or driven across the frontier by thieves, and which prescribes that "a certificate from a competent magistrate in the place of residence of such claimant shall be considered as evidence of the ownership of the cattle, when there are conflicting claims of ownership," it is suggested that it might be amended by prescribing that such certificate shall be required in addition to other satisfactory proofs of the identity of the animals and their ownership.

The Secretary of the Treasury is further pleased to comment upon the legislative measures now pending in the Congress of the United States, to which your previous notes on this subject have related, and observes that the information he possesses being to the effect that the Republic of Mexico intends to pass a similar law authorizing the return to that country, under like exemptions, of cattle straying thence into the United States, he is of the opinion that the provisions of the Senate and House bills are reasonable and proper, and that owners of animals

along the frontier which simply stray across the border line should be allowed to have them returned without unreasonable delay or the payment of the duties. He is, however, also of the opinion that, in order to prevent frauds on the revenue, the privileges proposed to be conferred by the bills in question (and inferentially by the legislation proposed to be enacted in Mexico) should only be granted upon the presentation of adequate proofs of ownership and straying, and he accordingly suggests amendment of whatever measures may be adopted to the desired end, so as to require the owner, at the time the animals are returned, to satisfy the customs officers nearest the point where they are returned that the animals are his property; that they were owned by him in the country whence they strayed, and that they strayed or grazed across the boundary line without his knowledge or consent.

I am disposed to concur in the views of my colleague, and if the amendments herein suggested are acceptable to the Mexican Government, but little will remain to be done in the way of reducing the proposed understanding to definite form.*

Accept, etc.,

T. F. BAYARD.

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No. 872.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, May* 19, 1888. (Received May 21.)

Mr. SECRETARY: I have had the honor to receive your note of yesterday, whereby you were pleased to reply to mine of the 28th ultimo, as an inclosure to which I sent you a draught of an arrangement for the reciprocal passage of cattle across the frontier between Mexico and the United States, for the purpose of grazing or as estrays, which draught was proposed for the avoidance in future of the difficulties which have heretofore arisen in connection with this matter.

I have carefully examined the observations made by the honorable Secretary of the Treasury in relation to my draught, and approved by you, and also the additions proposed.

As the object of these observations is to prevent the frauds that might be facilitated by the privileges granted to cattle-men on the frontier, I consider myself authorized, by the instructions which I have received from my Government on this subject, to accept them and to sign the agreement in question.

I herewith inclose a draught which contains the three modifications suggested in your note of yesterday, the first of which is intended to form section 2 of Article III; the second is to take the place of section 2 of Article IV, and the third is to form the final sentence of Article VI of my draught.

Be pleased to accept, etc.,

M. ROMERO.

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*A convention to regulate the crossing of the frontier by straying or stolen cattle was signed July 11, 1888, and awaits exchange of ratifications.

[Inclosure.—Translation.]

*Additions to the draught of an arrangement for the passage of cattle.*

ARTICLE III.

(2) The collector of customs shall examine the cattle and enter them in due form. He shall, moreover, appraise their value, in order that such appraisement may serve as a basis for the collection of duties, in case the animals do not return to the country whence they came; and he shall require their owner to furnish a bond for their return at the time fixed (which shall not be more than six months subsequent to the date of their passage across the frontier), or for the payment of import duties, in case there shall be occasion for collecting such duties.

(Sections 2 and 3 of Article III will then be sections 3 and 4.)

ARTICLE IV.

(2) (To be substituted for the same section of this article in the previous draught.) That they show to the satisfaction of the collector of the custom-house nearest to the point where the estrayed cattle are to return, that such cattle are their property, and that they were so before they strayed across; and that they describe the brands of the animals, and set forth such other distinguishing marks as may serve for their identification, and furnish evidence to the aforesaid collector that the cattle crossed the frontier without the knowledge or consent of their owner.

ARTICLE VI (at the close) in addition to other proof satisfactory to the collector of customs, of the identity of the animals and of their ownership of the same.

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## No. 873.

### *Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, May* 22, 1888.

SIR: I have the honor to refer to your note of the 11th ultimo, in which the offer is made to return the horses and other property belonging to certain citizens of the United States who were detained lately at Janos, Mexico, and to say that the Department is to-day informed that Mr. J. J. E. Lindberg, of El Paso, Texas, is authorized to receive the property in question.

I will thank you to make the necessary request of the Mexican authorities, and at the same time you will add to the Department's obligation in this matter if you will have the kindness to telegraph those authorities.

Accept, etc.,

T. F. BAYARD.

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## No. 874.

### *Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, May* 23, 1888. (Received May 24.)

Mr. SECRETARY: I have the honor to inform you, referring to your note of yesterday relative to the delivery to Mr. J. J. E. Lindberg, of El Paso, Texas, of certain arms and horses taken at Janos from citizens

of the United States who had entered Mexico in pursuit of robbers, that I have received a telegram from Mr. Mariscal, secretary of foreign relations of the United States of Mexico, whereby he instructs me to say to you that Mr. Lindberg will receive the arms and two of the horses that were taken, the third having died; the price of the dead animal will, however, be paid if it shall appear that he died owing to any neglect or ill-treatment on the part of those who had him in charge.

Accept, etc.,

M. ROMERO.

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No. 875.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, May 28, 1888.*

SIR: I have the honor to acknowledge, with satisfaction, the receipt of your note of the 23d instant saying that two of the horses—the third having died—and arms detained by the authorities at Janos, would be delivered to Mr. J. J. E. Lindberg, at El Paso, Texas; also offering to pay the price of the dead animal, if it shall appear that he died owing to any neglect or ill-treatment on the part of those who had the horse in charge.

Mr. Lindberg has been communicated with upon the subject, and the Secretary of the Treasury has instructed the collector of customs at El Paso to admit the property to free entry.

Accept, etc.,

T. F. BAYARD.

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No. 876.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, June 4, 1888.*

SIR: I have the honor to transmit herewith, for your information, in connection with my note to you of March 24th last, a copy of a letter from the honorable C. Meyer Zulick, governor of the Territory of Arizona, dated the 9th ultimo, concerning the case of Manuel Mejia, a Mexican citizen. It will be observed that Governor Zulick refers to his letter of January 20, 1887, a copy of which was sent to you under date of the 29th of that month, and which detailed the circumstances connected with the outrage upon Mr. Mejia. In his present letter the governor states that the forms of law in the case of Genung and Bryant, suspected of the commission of that outrage, were followed, and that they were finally discharged from custody for want of sufficient evidence to hold them for trial. Governor Zulick then adds:

> Please convey to Mr. Romero the assurance that all has been done possible to do under the unfortunate circumstances; also that the authorities of this Territory [Arizona] and of Maricopa County stand ever ready to faithfully maintain and enforce the rights of every person within their borders, irrespective of nationality.

Accept, etc.,

T. F. BAYARD

[Inclosure.]

*Mr. Zulick to Mr. Bayard.*

EXECUTIVE DEPARTMENT,
*Prescott, Arizona, May* 9, 1888.

SIR: Referring to the matter complained of by Mr. Matias Romero, the minister of Mexico, regarding the outrage committed upon Manuel Mejia, a Mexican citizen, at Phoœix, Maricopa County, Arizona, I have the honor to report that the authorities of the Territory and of Maricopa County have used earnest endeavors to discover and punish the perpetrators of the outrage complained of. The facts establish that this wrong was committed under the cover of darkness by disguised persons, whose apparent object was to force from him a statement of who (they believing that he knew) were implicated in the murder of Barney Martin and his family. In my letter of January 20, 1887, I gave a detailed statement of this brutal murder, and Mejia's circumstantial connection with it, he having been found in close proximity to Stanton's house in possession and riding one of Martin's horses. As I heretofore stated to the Department, Charles B. Genung and Tom Bryant, who were suspected as the parties committing this outrage upon the person of Mejia, were duly arrested and held to bail to answer the action of the grand jury of Maricopa County, which body, under the direction of the district attorney, fully investigated the charge, but the evidence of identification being insufficient, failed to find an indictment. Under our system of judiciary, and that which, certainly, is recognized all the world over, no more could have been done. The parties claimed to be identified by Mejia were duly complained of under oath, arrested under process of law, held to bail on a good and sufficient bond to appear and answer the action of the grand jury in Maricopa County, and that body, composed of true and tried men, under the solemnity of an oath to present none or fail to present any through fear, favor, or affection, ignored the bill and discharged the parties. They, doubtless, discharged these men because of the absence of sufficient proof to justify an indictment. They were a competent judicial authority, regulated and acting under the forms of law, and I respectfully, but earnestly, assert that their action is not fairly open to the criticism that it resulted in a "notorious disregard of justice," as stated by Minister Romero. Respecting the arrest without warrant of a competent magistrate, and the detention for several days by Deputy Sheriff Blankenship, of Mejia, the circumstances should be fully considered. A foul and brutal murder of a respected citizen of Maricopa County, also his wife and two boys, aged nine and eleven years, had been committed for the sole purpose of a robbery of several thousand dollars, the price of his ranch, which was in his possession. The four bodies were burned, and the charred remains of the murdered victims were discovered about a week afterward. The tracks of the assassins led to the immediate vicinity of Stanton's and Mejia's houses, which were the rendezvous of a lot of Mexican outlaws, with whom Stanton was generally reported to be a participant. His reputation was of the worst, he having a record in crime. Stanton and Mejia were both arrested, and subsequently released, the evidence not being sufficient to hold them. Public indignation was greatly aroused; it was in the midst of these exciting incidents that the unfortunate acts complained of were committed. Certainly, Mejia's being found in possession of the horse, the stolen property of the murdered man, was a circumstance in itself sufficient to justify his arrest under due forms of law, and fully warranted a sworn complaint upon which to base an order of arrest. The neglect of the deputy sheriff to formally execute this sworn complaint is greatly to be regretted, but I can scarcely think this failure to do so when being in full possession of facts to fully justify it constitutes as serious an offense as is charged. The omission was not occasioned by any desire to violate the personal rights of Mejia, who it was supposed at that time was an American citizen, much less to reflect any discredit upon a citizen of the Republic of Mexico.

Please convey to Mr. Romero the assurance that all has been done possible to do under the unfortunate circumstances, also that the authorities of this Territory and of Maricopa County stand ever ready to faithfully maintain and enforce the rights of every person within their borders, irrespective of nationality.

I am, etc.,

MEYER ZULICK.

No. 877.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, July* 3, 1888. (Received July 5).

Mr. SECRETARY: Your note of the 16th of April last, as an inclosure to which you sent me a report of the Acting Commissioner of Public Lands, bearing date of the 15th of March previous, and having reference to the complaint of J. Escobar y Armendariz, a Mexican citizen, owner of the Santa Teresa tract, situated in Doña Ana County, in the Territory of New Mexico, was transmitted by me to the Mexican Government, and as I have now received instructions from Mr. Mariscal on this subject, I must once more invite your attention to it.

The petition of Mr. Escobar y Armendariz, which I transmitted with my note of November 25, 1887, raised three points:

(1) That the title to the Santa Teresa tract was valid according to Mexican law when the land was transferred, in virtue of the treaty of December 30, 1853, to the United States.

(2) It asked for a confirmation of said title by the Congress of the United States, and

(3) That a new survey of the land should be made, the owner being notified.

With regard to the first point, it appears from the petition of Mr. Escobar y Armendariz that Mr. H. M. Atkinson, surveyor-general of the Territory of New Mexico, expressed the opinion, in December, 1878, in view of the evidence submitted to him, that the validity of the concession of the Santa Teresa tract was fully shown, but that Mr. George W. Julian, the new surveyor-general, expressed a contrary opinion, based solely upon the fact that, according to article 6 of the treaty of December 30, 1853, betweeen Mexico and the United States, it was necessary for the concession, in order to be valid, to have been recorded in the archives of Mexico, and that no evidence had been furnished that this requirement had been complied with.

The entire question in respect to this matter is, therefore, in the opinion of the surveyor-general, reduced to one fact, and that is: Was the concession of the land of which Mr. Escobar y Armendariz is the present possessor recorded among the archives of Mexico?

It seems that Surveyor Julian understands by archives of Mexico—those of the City of Mexico, and not those of the chief towns of the other territorial divisions of the country—which divisions were first made by the Spanish Government, and afterwards adopted by the Mexican Government—and I do not consider that interpretation of the treaty to be well founded.

It may very easily have happened that the authorities of the provinces into which the vice-royalty of New Spain was divided were authorized to make grants of land for the validity of which the approval of the viceroy was not necessary, in which case the proper evidence would be found only among the archives of the respective local authorities, and not among those of the City of Mexico.

It appears evident to me that the object of the stipulation referred to was to prevent the approval of fraudulent grants forged by speculators with a view to acquiring lands that had never been granted to them by either the Spanish or the Mexican Government; as, however, it is

well known in this case that the García family, to whom the grant was made, has been in legitimate possession of the land for about a century, that the grant was made according to the laws then in force, and that while official proof of these facts can not be presented, this is due to the circumstance that the archives of the State of Chihuahua were destroyed by the invading American army during the war of 1846 and 1847, it does not appear that Surveyor Julian's interpretation of the treaty can be sustained.

If there can be any doubt whether the title issued by the Spanish Government in favor of the García family was registered, there is no doubt, according to the statement made by Mr. Escobar in a communication addressed by him to the secretary of foreign relations of Mexico, on the 25th of May last, that that grant was confirmed by the Mexican authorities and duly recorded among the public archives of Chihuahua.

With respect to the second point of Mr. Escobar's petition, I think it proper for me to state that, if the Secretary of the Interior and the Commissioner of Public Lands do not think it incumbent upon them to lay before Congress the statements made by the interested party in behalf of his rights, the Mexican citizen whose interests are at stake in this case will be deprived even of the right of being heard in his own defense, inasmuch as he was not heard before the adverse report of Surveyor General Julian was prepared, and as, being a foreigner, he can not lay a statement before the United States Congress otherwise than through his own Government. The way in which his statement is to be brought before the officer who is to decide this case is a secondary question, and if the Department of the Interior feels any hesitation about this, the Government of México trusts that none will be felt by the Department of State.

With regard to the third point, the opinion of the Commissioner of Public Lands appears to me to be well founded, viz, that a resurvey of the land will depend upon the decision that may be adopted in respect to Mr. Escobar's claim by the law-making power, and that the survey already made, which is considered incorrect by the interested party, is of a purely provisional character, which will not stand in the way of its subsequent rectification.

In view of the connection existing between the case of Mr. Escobar and the stipulations now in force between Mexico and the United States with respect to land grants, and with the design of justifying the request made by Mexico of the United States that the rights of this Mexican be recognized, I think proper to set forth certain considerations touching the question in general.

When the United States acquired a considerable portion of the territory of Mexico first by the treaty of February 2, 1848, and afterwards by that of December 30, 1853, both Governments agreed in their desire to proceed with equity (respecting the right which had been acquired to the territory that was changing its nationality by its inhabitants, who were likewise made to change their nationality by the force of circumstances), that the grants of land made by the Spanish or the Mexican Government prior to the dates of both treaties should be inviolably respected, and in article 8 of the first and in article 5 of the second their right of ownership to all that belonged to them was recognized, and the privilege was granted them of disposing thereof as they might think proper, without any obligation on their part to pay, on this account, any tax, impost, or charge of any kind whatever.

A number of forged land grants having been presented in virtue of

the first treaty, the United States Government endeavored in the second to remedy that evil, by stipulating that no titles should be recognized save such as should have been recorded among the archives of Mexico. The object of this stipulation, however, was merely to put a stop to the abuses which had been committed in virtue of the first treaty by the presentation of fraudulent grants, and by no means to deprive legitimate land-owners of their rights in case of their inability to furnish evidence that their land had been granted to them, or that it had been recorded, when the archives had been destroyed by the invading army of the United States.

The United States Congress, desiring to act with justice in this matter, recognizing legitimately-acquired rights and putting a stop, at the same time, to the abuse of fraudulent grants, enacted the law of July 22, 1854, which provided for the appointment of surveyors-general for the territories ceded by Mexico. It was made the duty of these officers to examine the grants in question and to present their reports to Congress, in order that that body might decide concerning each case.

This measure, which, as I have already remarked, shows, in my opinion, the interest that was taken by the United States in this matter, has, in practice, been followed by a result very different from that which was expected, its result having been to prevent, or at least indefinitely to suspend, the confirmation of the titles legally acquired by the inhabitants of those regions.

You, Mr. Secretary, who have spent several years of your life as a prominent member of one of the legislative bodies of your country, taking an active and important part in its diliberations, well know what a mass of public business has to be examined and settled by both Houses of Congress; the amount of such business increases day by day, rendering it very difficult for the legislative branch of the Government to give any attention to matters of secondary importance, which affect the interest of private individuals only.

Moreover, the circumstance that these cases have to be decided by Congress renders it incumbent upon the interested parties to employ attorneys in this city to defend their rights, or at least to endeavor to secure a decision concerning their titles; this requires a considerable outlay, which in many cases would be greater than the value of the lands themselves.

The Committee on Lands of the House of Representatives, in its report No. 675, estimates the number of acres included in grants to private persons, now awaiting confirmation by Congress, at 10,000,000 in the Territory of New Mexico alone, at 3,000,000 in the State of Colorado, and at 500,000 in the Territory of Arizona, making 13,500,000 acres in all.

The Secretary of the Interior, in his report for 1880, stated that, in the course of thirty years more than a thousand grants had been laid before the surveyors-general, but one hundred and fifty of which had been transmitted to Congress, and of these latter seventy-one had been decided by that body; that is to say, 7 per cent. of the grants submitted for examination.

At this rate, several centuries will nave to pass before those which have hitherto been submitted can be decided. These are estimated as being but a small portion of those which really exist.

Thus it is that the Secretaries of the Interior, the Commissioners of Public Lands, and the United States surveyors-general in New Mexico have admitted in their annual reports to Congress the insufficiency of the act of July 22, 1854, to meet the object that was had in view, viz,

to fulfill the obligations contracted by the United States towards Mexico, and to do justice to the inhabitants of those regions, whose rights of ownership, until they obtain the confirmation of their titles, are held in abeyance, which very naturally affects the progress of those regions, it being uncertain who is the owner of millions of acres situated there.

So serious is this evil that a number of bills have been introduced into the United States Congress for the repeal of the act of July 22, 1854, and providing for the establishment of special courts charged with the examination and decision, in each case, of the merits of the claim. This method was adopted in States whose situation was similar to that of the Territory of New Mexico, such as Louisiana, Florida, and California, and the result was very satisfactory.

Residents of the Territory of New Mexico, of Mexican origin, have frequently called at this legation, soliciting its good offices in endeavoring to induce the United States Government to confirm, in pursuance of existing treaties, the grants of land that had been made to them by the Spanish Government or by that of Mexico; as, however, they have furnished no evidence that they had retained their Mexican nationality, I have always told them that I did not consider myself authorized, without instructions from my Government, to interfere in these matters, at least, in private cases; but, as Mr. Escobar is a Mexican citizen, and as my Government has instructed me to transmit his complaint to you, it has seemed proper to me to state the above facts, as a proof which is, in my judgment, conclusive of the evils of the present system, which directly affect the case in question; the principal ones of these are two in number, viz, the difficulties met with by the interested parties in obtaining a hearing before Congress in matters of a semi-judicial character, and the *quasi* impossibility of Congress attending to these matters and deciding them with the expedition which their nature requires.

Be pleased to accept, Mr. Secretary, etc.,

M. ROMERO.

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No. 878.

*Mr. Romero to Mr. Bayard.*

[Translation.]

LEGATION OF MEXICO,
*Washington, July* 19, 1888. (Received July 20.)

Mr. SECRETARY: Toribio Lozano, a Mexican citizen, born in the State of Nuevo Leon, established in the year 1861, on the San Diego ranch, Nueces County, Texas, a sheep-farm which he placed in charge of a number of Mexican shepherds. He suffered no further damage to his property for some time than the occasional killing of a shepherd and the plundering of his flocks by Indians. On the 25th or 26th of November, 1873, however, twelve or fourteen ranch-owners from Dogtown and Stonebridge organized a party which, on the 18th of that month, attacked the Chuza ranch and surprised the shepherds who were in charge of Lozano's sheep; they bound Filomeno and Epifanio Rios, Vicente García, Jorge Rodriguez, José Maria Reina, Leonardo Garza, and Blas Mata and hung them to a tree; the other shepherds made their escape and the flocks were dispersed. When Lozano learned of this occurrence he armed twelve men and went to his ranch for the purpose of collecting his sheep, which he was obliged to sell at a price greatly in-

ferior to their real value. The authorities of Nueces County were duly notified of these facts, and Encarnacion Garza lodged a complaint against the guilty parties; the said authorities, however, confined themselves to taking note of the fact that the crime had been committed, but did not adopt any measures for the detection and arrest of the criminals.

The Mexican legation addressed a note, dated January 28, 1875, to the Department of State, in relation to this case, in which note, after stating the facts that gave rise to this complaint, and examining the evidence on which it was based, it stated that it had received instructions from the Government of Mexico to present a claim against that of the United States, and to ask an indemnity of $18,221.67 for Toribio Lozano and of $20,000 for each of the families of the seven murdered shepherds.

The Secretary of State replied, on the 19th of February following, declaring that no Government is pecuniarily responsible for the murder of private persons committed by other private persons within the limits of its jurisdiction.

The minister of Mexico again asserted the aforesaid claim, and Mr. Hamilton Fish replied, under date of the 18th of March following, maintaining the position which he had assumed in the matter with respect to the pecuniary responsibility of this Government in the case, adding, however, that he would call the serious attention of the governor of Texas to these facts.

In the reply of Mr. Mariscal to the Department of State, he observed that the right of the Mexican Government had been recognized to consider the neglect to prosecute the perpetrators of these murders as a denial of justice; he concluded by stating that he was awaiting instructions from his Government, but that he did not withdraw the claim which he had presented.

Mr. Fish replied on the 6th of the following April, denying that it had been recognized that there had been a denial of justice in the case mentioned.

The legation replied on the 17th of the said month of April, furnishing certain explanations with regard to the sense of the words which it had used in its note, and again asserting the claim. This terminated, for the time being, the correspondence exchanged with the Department of State in relation to this case.

Mr. Mariscal, minister of foreign relations of Mexico, has instructed me, under date of the 28th ultimo, to inform the United States Government that inasmuch as Don Francisco Alivares, the representative of Don Toribio Lozano, has again applied to the department under his charge both on his own account and in the name of the families of seven of his shepherds who were murdered in Nueces County, in November, 1873, I renew the claim which was presented several years ago and again ask for the indemnity that was solicited in behalf of Lozano and of the families of the seven murdered shepherds, on the ground of the denial of justice, which appears to be shown in the correspondence of this legation with the Department of State on this subject.

Be pleased to accept, etc.

M. ROMERO.

No. 879.

*Mr. Bayard to Mr. Romero.*

DEPARTMENT OF STATE,
*Washington, August* 13, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 17th ultimo in relation to the alleged murder of certain Mexican shepherds in the western part of Texas in the year 1873. As your note states, a claim arising out of the above occurrence was presented to this Government in 1875 by the Mexican legation, in a note dated the 28th of January of that year. In a reply, dated the 19th of the following month, the then Secretary of State, Mr. Hamilton Fish, denied the liability of this Government in the premises, and this position was reaffirmed by him in notes dated the 18th of March and the 6th of April following. To Mr. Fish's last note the Mexican legation replied on the 17th of the same month, chiefly for the purpose of explaining the sense in which it had used certain words in the previous correspondence.

Here the correspondence was discontinued, and nothing further in regard to the claim is found in our records since that time (April 17, 1875) until the reception of your note of the 19th of July, 1888.

It is needless to say that the Department is always ready to consider representations made to it under the sanction of the friendly Government of Mexico, with which it is the desire of this Government to cultivate the most amicable relations. In this spirit your note has been carefully examined, but the Department fails to find in it any allegation or ground of complaint not disclosed in the correspondence that took place thirteen years ago. Such being the history of the renewed presentation of the claim, the Department deems it proper to state that the views entertained and expressed by it heretofore are unchanged. The position taken by the Department as defined in its three notes above referred to, of 1875, is still believed to be sound in international law and requires no restatement. Nor is any new fact or reason presented by your note of the 19th ultimo which disturbs the conclusion arrived at in April, 1875, and so clearly stated at that time by Mr. Mariscal in his final note upon the case referred to.

Accept, etc.,

T. F. BAYARD.

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No. 880.

*Mr. Romero to Mr. Bayard.*

LEGATION OF MEXICO,
*Washington, August* 13, 1888. (Received August 16.)

Mr. SECRETARY: I have the honor to inform you that I have received instructions from Mr. Mariscal, secretary of foreign relations of the United States of Mexico, dated City of Mexico, July 24, 1888, to complain to the United States Government of the action taken by the judge of Cameron County, Texas, in the case of the extradition of Paulino S. Preciado, late second lieutenant in the Fourth Battalion of the Mexican army, which was doing garrison duty at Matamoros, and to make application for his extradition under the convention of December 11, 1861.

The case is as follows: Paulino Preciado received on the 13th of May,

1886, from Captain Jesus Torres $100 to pay what was due to his company. On the next day Preciado called upon Captain Torres without returning the money to him or giving any account of its payment, in consequence of which, orders were given that he should be brought to trial. Preciado, who was told who were the persons composing the court by which his case was to be examined, made no objection whatever. Captain Torres ratified the statement on which the charge was based.

Preciado afterwards declared that he had spent the money, and said that he thought that he had committed no crime, because, according to information received by him, the company had been paid.

A sergeant and a soldier belonging to the company stated that two days' pay was due them, and that they believed that this was owing to the fact that Lieutenant Preciado had disposed of the money.

Evidence of these facts was sent by the extradition agent at Matamoros to the extradition agent at Brownsville, Texas, together with his requisition, which bore date of June 28, 1887, and in which it was stated that immediately after having committed the crime, Preciado had fled to Brownsville.

The case was examined by the judge of Cameron County, Texas, on the 6th, 7th, and 20th days of July, 1887.

Preciado then asked, through his counsel, that his case might be investigated, and that evidence might be received. The judge, who is also an extradition agent for the State of Texas, heard the military witnesses who were sent from Matamoros. Preciado declared that the charge against him of appropriating public funds had been duly examined, and that it had been shown that he had paid $49 to the company and returned $50 to the paymaster, and in proof of his innocence he alleges the fact that he had continued in active service, making his payments as before, until September, 1886, when he left the Mexican army. He added that the extradition papers sent by the extradition agent at Matamoros did not furnish sufficient proof of the crime in order that the extradition could be granted in pursuance of the treaty with Mexico, and that the certification of those documents by Consul Sutton did not state that he (Sutton) was the principal consular officer of the United States, as provided by the treaty.

On these grounds the aforesaid judge acquitted Preciado of the charge preferred against him, notwithstanding the fact that in the first of the reasons on which his decision was based, he states that the case* is "subject to further consideration and revision of [the] United States laws relating to this charge, and until the final hearing of this cause the exception is temporarily overruled."

This was done on the ground of the vagueness of the charge and lack of evidence.

It appears from the evidence in this case, a certified copy of which I have the honor to send you, that Preciado was prosecuted as soon as it was learned he had embezzled this money, that is to say, on the 13th day of May, 1886.

Notwithstanding this, he continued to serve in the battalion to which he belonged up to September 30, 1886, when he deserted from the prison guard at Matamoros, enabling two criminals who were under sentence of death to escape.

Article I of the treaty signed by Mexico and the United States on the 11th of December, 1861, provides that extradition shall be granted "when the fact of the commission of the crime shall be so established as

* The judge says "this exception."

that the laws of the country in which the fugitive or the person so accused shall be found, would justify his or her apprehension and commitment for trial if the crime had been there committed." The embezzlement is proved in this case by the confession of the accused himself before the military judge who conducted the preliminary examination of the case, by the statement of the captain who gave him the money, and by those of Sergeant Taylor and private Lobato. All these were sent as evidence with the requisition of the extradition agent at Matamoros, who is the municipal president of that city, the first civil magistrate thereof, and duly authorized by the governor of Tamaulipas; consequently, the requisition was made in accordance with Article II of the treaty.

The consular certificate of Mr. Sutton, United States consul-general at Matamoros, was declared insufficient by Judge Forto on the ground that it did not state that Mr. Sutton is the principal consular officer of this country in Mexico, as required by the laws of the State of Texas. As there is no consular office in this country higher than that of consul-general, it is not easily seen how the judge of Cameron County could consider Consul Sutton's certificate as being insufficient.

As the treaty does not specify what kind of documents must accompany a requisition, and as those sent by the extradition agent at Matamoros clearly showed that the crime had been committed, they should have been sufficient to secure the extradition of the accused.

The Government of Mexico thinks, moreover, that the judge of Cameron County, Texas, had no power to acquit Preciado of the crime of embezzlement, for which he is under prosecution in Mexico. This crime was committed on Mexican soil to the detriment of the federal treasury of Mexico, by a Mexican citizen, who was an officer in the army of the Republic, and in nowise affects the interests of the United States. Consequently, the jurisdiction of the Mexican courts is full and exclusive.

Be pleased, etc.,

M. ROMERO.

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[Inclosure 1.—Translation.]

*Record of the Court of Examination of the Fourth Military Zone.*

I, Ignacio Hernandez Sanchez, having been appointed by the general-in-chief of the fourth military zone to investigate the crime of embezzlement with which Paulino Preciado, second lieutenant of the fourth battalion of infantry, is charged, do hereby certify that on folio two of this case is found the following statement:

Battalion No. 4.—Second captain. I, the undersigned, have the honor to inform you that I had occasion to send Paulino Preciado, second lieutenant, to get a hundred-dollar note changed, $92 of which money belonged to the second company, which is under my command. This was yesterday, and he has failed to appear until now, a quarter past 8 o'clock, when he come to see me, but without returning the money to me or giving me any account of its payment, and as I think that he has spent it improperly, I have thought proper to order him to be placed under arrest until a decision in his case shall have been reached by the proper superior officer; this I have done because it is a case in which the funds of the company are involved.

JESUS TORRES,
*Second Captain, the Officer in Command of the Battalion, Present.*

HEROIC, MATAMOROS, *May* 14, 1886.

On folio No. 1 a seal containing the words: "Mexican Army, Division of the Rio Bravo. General-in-Chief." Matamoros, May 14, 1886. Let an investigation be held of the case of Paulino Preciado, second lieutenant of the fourth battalion, charged with the crime of embezzlement, for which provision is made in article 3714, section 1, of the Code of Military Justice, and to this effect Lieutenant Colonel Ignacio H.

Sanchez is appointed examining judge, Captain (First Adjutant) Francisco Muñoz is appointed attorney, and Ensign Ramon Castañares is appointed secretary. Let the promise of the first two to perform their duties faithfully be received, and let this paper be handed to the examining judge.

ASCENSION GÓMEZ,
*General in Chief.*

On folio 3 the citizen examining judge decided to go, in company with the citizen attorney and the undersigned secretary, to the quarters of the fourth battalion, where the accused is. Having arrived there, and having entered the flag-room, the examining judge informed the accused, who was present, of the order issued by the citizen general-in-chief, and of the statement made by Captain Jesus Torres, of the fourth battalion. He was likewise informed who were to examine the charge of embezzlement that had been made against him. (He said that) he knew who the persons were who were to compose the court appointed by the general-in-chief, and that he agreed to the charge made against him, and he signed with me, the examining judge.

IGNACIO H. SANCHEZ,
*Lieutenant-Colonel.*
PAULINO PRECIADO,
*Second Lieutenant.*
RAMON CASTAÑARES,
*Ensign, Secretary.*

On folio 4 a report which says: On this day the citizen judge ordered Captain Jesus Torres to appear before him for the purpose of ratifying the statement which he had made to the effect that Second Lieutenant Paulino Preciado had made improper use of the funds belonging to the company under his (Torres') command. His statement having been read to him, and he having been asked whether he ratified it, answered that it was the same one that he had made at headquarters, and that he ratified it in all its parts. He then signed in presence of the judge and the undersigned secretary.

IGNACIO H. SANCHEZ.
JESUS TORRES,
*Captain.*
RAMON CASTAÑARES,
*Secretary.*

Paulino Preciado, second lieutenant of the fourth battalion of infantry, being present, was then urged to tell the truth, and having promised to do so, was asked the usual questions concerning his personal status, in reply to which he said: "My name is as above written; I am a native of Guadalajara, in the State of Jalisco; thirty-one years of age; unmarried, and by profession a soldier." Being informed of the charge preferred against him by Captain Torres, and being questioned about as much of that matter as had reference to him, he said: "On the 12th instant I received from Captain Torres a hundred-dollar note belonging to the fund for paying the second company; I was told to get it changed which I did not do, because soon after going out, and while I was making arrangements to get the money changed I met three friends who invited me to drink a glass with them; I accepted their invitation, and at the place where we went we drank not only one but several glasses, because I thought that it was incumbent upon me to return the compliment which had been paid me, and I ordered a number of drinks. I was now beginning to feel badly, when my friends urged me to go to a gambling house, which, owing to the condition in which I was, I consented to do. Before I left I had lost the note at play. I think, however, that I committed no crime, because I have been informed that the company has been paid." He then signed, together with the judge and the secretary.

IGNACIO H. SANCHEZ.
PAULINO PRECIADO.
RAMON CASTAÑARES.

The court then decided to examine a non-commissioned officer and a private belonging to the second company, for the purpose of ascertaining whether they had received their pay for the 12th, 13th, and 14th days of this month. It therefore summoned the first sergeant of the second company and also one private to appear before it. Juan Taylor, first sergeant of the second company, having appeared, declared that he would tell the truth. He was then informed that if he failed to tell the truth he would render himself liable to punishment, and was told to what punishment he would be liable. He then said: "I am a native of Victoria, the capital of this State; I am unmarried, thirty years of age, and by occupation a soldier." Being asked whether his company and he himself had received their pay he said no, adding that

pay was due them for the 12th, 13th, and 14th; that on the last of the days aforesaid he was under the necessity of applying to the captain of his company, Jesus Torres, to whom he complained that he had not been paid; he said that Captain Torres told him that he did not know why the company had not been paid, because he had given Second Lieutenant Preciado the money to do so. He was then asked whether he knew that Lieutenant Preciado had spent the money, in reply to which he said that he had heard some officers say that Lieutenant Preciado had got drunk and had gambled away $100 belonging to the company. This, he said, was all that he knew concerning the matter, and he said it under the responsibility of the promise (to tell the truth) made by him. He then signed with the judge and the secretary.

IGNACIO H. SANCHEZ.
JUAN TAYLOR,
*First Sergeant.*
RAMON CASTAÑARES,
*Secretary.*

On folio 5: Immediately afterwards, Jesus Lobato, a soldier of the fourth battalion, second company, being present, declared that he would tell the truth, and was informed what penalty was provided by law for those who give false testimony. He then said that he was from the State of Puebla, thirty-eight years of age, married, and by occupation a farmer, although then serving as a soldier. Being asked whether the company to which he belonged had been paid, he said that it had not; that the second company, which was the one to which he belonged, had not received its pay since the 12th instant; being requested to state whether he knew why it had not been paid, he said that he had heard several non-commissioned officers and superior officers say that the captain had given Second Lieutenant Paulino Preciado the amount necessary to make the payment, and that he had gambled it away and drank it up with some friends; this he said was all he knew about the matter, and that he made his statement under the responsibility of the promise which he had made, and signed with the judge and the secretary.

IGNACIO H. SANCHEZ.
JESUS LOBATO.
RAMON CASTAÑARES.

And on my word of honor I issue this certificate to the end that the municipal president of this city may make application to the American authorities for the extradition of Paulino Preciado, second lieutenant of the fourth battalion, now residing at Brownsville.

Done at Matamoros this eighteenth day of June, one thousand eight hundred and eighty-seven.

IGNACIO H. SANCHEZ,
*Lieutenant-Colonel.*

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[Inclosure 2.]

*Mr. Torres to Mr. Forto.*

CITY OF MATAMOROS, STATE OF TAMAULIPAS, MEXICO,
*June* 28, 1887.

SIR: I would respectfully represent to your honor that I am Melquiades Torres, president municipal and *ex officio* extradition agent of the United States of Mexico, and in that capacity I now make this requisition on you as an *ex officio* extradition agent for the extradition and deliverance to the authorities of said Government of Mexico of one Paulino S. Preciado, under and by virtue of the treaty of extradition now existing between Mexico and the United States.

In this connection, and as grounds and reasons for making this demand and requisition for the body of the said Preciado in the name and by the authority of the Federal Government of Mexico, I would to your honor respectfully show:

That in the State of Tamaulipas, and in the Republic of Mexico, on or about the 14th day of May, A. D. 1886, the said Paulino S. Preciado was an officer of the Federal Government of Mexico, to wit, second lieutenant of the fourth battalion infantry of the line, and was as such officer a receiver and depositary of public money belonging to the said Government of Mexico, and as such officer, by virtue of said office, he then and there had in his possession and charge the sum of $100 in Mexican money, the same being public money belonging to the said Government of Mexico, and he did then and there unlawfully and fraudulently take the said sum of money and convert the same to his own use.

That immediately after the embezzlement of said public money, as aforesaid, and before he could be dealt with and suffer the penalty imposed according to and by the laws of Mexico, the said Paulino S. Preciado fled beyond the frontier limits, and is now a refugee from the justice and laws of this country in Brownsville, Cameron County, Texas, in which place he is now or lately was a resident.

That said Paulino S. Preciado is a native-born Mexican citizen; that the Mexican Government is ready, willing, and now offers to pay any and all the costs and expenses attendant on and connected with the apprehension, trial, and extradition, as herein requested, of the said Preciado, or to give security for the same, as your honor shall require.

That herewith I extend and show to your honor written evidence, duly authenticated, according to the statutes of the United States in and for such cases made and provided, which shows the guilt of the said Preciado, as aforesaid, and in connection therewith am ready to establish his said guilt by such other and further oral evidence as your honor may deem necessary.

The premises being considered, I request and demand, in the name of the Federal Government of Mexico, under and by virtue of the said treaty of extradition, now existing and in force between the Government of the United States of America and the United States of Mexico, that, after due proceedings had with this object in view, you turn over and deliver to the Mexican Government or its lawfully authorized agent or agents the body of him, the said Paulino S. Preciado, to be dealt with and tried for his infraction and violation of the laws of this country, as aforesaid.

Respectfully,

[SEAL.] MELQUIADES TORRES,
*Presidente Municipal, Ex Officio Extradition Agent.*

UNITED STATES CONSULATE-GENERAL,
*Matamoros, Mexico, June 28, 1887.*

I, Warner P. Sutton, consul-general of the United States of America, for Matamoros, etc., do hereby certify that the foregoing six pages of manuscript, numbered from 1 to 6, both inclusive, are properly and legally authenticated according to the laws of Mexico, so as to entitle them to be received as evidence of the criminality of Paulino S. Preciado, the person therein referred to and mentioned by tribunals of Mexico.

In witness of which I have hereto signed my name and affixed my official seal at Matamoros this 28th day of June, A. D. 1887.

[SEAL.] WARNER P. SUTTON,
*Consul-General.*

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*Statement of the case and ruling of the court in re Paulino S. Preciado, before Hon. E. C. Forto, county judge Cdmeron County, and extradition agent of Texas.*

DEMAND FOR EXTRADITION.—STATEMENT OF THE CASE.

This requisition by the Hon. Melquiades Torres, president of the ayuntamiento of Matamoros, as extradition agent of Mexico, on affidavit of Lieutenant-Colonel Ignacio H. Sanchez, of the Mexican army, filed on the 28th day of June, 1887, alleging that on or about the 14th day of May, 1886, the accused, Paulino S. Preciado, native Mexican citizen, was a second lieutenant of the fourth battalion of infantry of the line of the regular army of the Republic of Mexico, and by virtue of his office was by law a receiver and depositary of public money belonging to that Government; that at the date named he had in his possession as such receiver and depositary the sum of $100, the same being public money, and that he did unlawfully and fraudulently take the said sum of money and misapply, embezzle, and convert the same to his own use and benefit.

The requisition also sets forth that immediately after the embezzlement of said public money and before he could be dealt with and suffer the penalty imposed according to and by the laws of Mexico he fled beyond the frontier limits thereof, and is now a fugitive from the justice and laws of his country, in Brownsville, Texas, in which place he is now a resident.

Counsel for the relator filed a document in the Spanish language, accompanied by a translation in the English language, said to be a copy of a military investigation instituted against the accused by Lieutenant-Colonel Sanchez, and to which was attached a certificate of the Hon. Warner P. Sutton, consul-general of the United States of America for Matamoros, etc., declaring the same to be properly and legally authenticated according to the laws of Mexico, so as to entitle it to be received as evidence of the criminality of Paulino S. Preciado, the person therein referred to and mentioned by the tribunals of Mexico.

A warrant having been issued on this complaint, and the accused arrested on the 29th day of June, an examination was postponed until the 6th day of July, at the request of the accused, to afford him time to procure the assistance of counsel and prepare his defense.

On the 6th day of July the accused, represented by Hon. F. E. Macmanus and Messrs. Mason and Celaya, as his attorneys, filed: (1) exceptions to the complaint; (2) exceptions to the report of the investigation, etc.; (3) answer to complaint and requisition for extradition; (4) motion to fix amount of bail for accused.

The exceptions to the complaint allege the same to be vague and incoherent, and fails to set forth any offense for which he may be lawfully extradited under the provisions of our treaty with Mexico, or any offense whatever. (2) That it fails to make a complaint under oath against the accused for any crime known to the laws of Texas that would justify his apprehension and commitment for embezzlement had the pretended offense been committed in the State of Texas. (3) That while said affidavit alleges that the accused misapplied, embezzled, and converted to his own use the funds in question, it fails to set forth that such proceedings were without the consent of his principal or employer or of the owner of the same.

The exceptions to the report of the military investigation are to the effect that it is not admissible as evidence under the laws of the United States nor the stipulations of its extradition treaty with Mexico of December 11, 1861. That the certificate attached to the same, signed by Consul-General W. P. Sutton, dated June 28, 1887, is not the certificate of the principal diplomatic or consular officer of the United States resident in Mexico, but is merely that of a consul-general of a district thereof. That such certificate was given improvidently, and is not true in fact. That the said copy certified on the word of honor of Lieutenant-Colonel Sanchez is not certified to contain the entire report of such investigation, and does not contain the final action thereupon, such final action being the withdrawal of the complaint, the dismissal of the cause, and the restoration of the accused to duty, which he continued to discharge for four months and a half after the date of said complaint without further molestation on account of it. That the said document and complaint are mere pretexts used by his political enemies to obtain the extradition of the accused, in order that they may be enabled to punish him for political action on his part against them.

The answer of the accused denies all the essential matters contained in the affidavit and report of investigation. Admits that, as second lieutenant, he received from his captain a fifty-dollar bank bill and several others of smaller denominations, amounting in all to $99; to have same changed into coin. That he returned $49 to Juan Taylor, sergeant of his company, to be paid to the men, and next day returned the $50 to his captain. That the report of the investigation fails to show that the complaint was dismissed and he restored to duty. That on the contrary after the withdrawal of the complaint and his restoration to duty in May he remained in the discharge of his duties until the 30th of September, or four months and a half after the commission of the alleged offense.

That on said 30th of September he abandoned the Mexican army, came to Brownsville, and, joined by his family, has continually made his domicile here, and entered on the business of editing and publishing a newspaper in this city. That he declared his intention to become a citizen of the United States, as per annexed certified copy thereof. That, impelled by a sense of public duty to his native land, he has criticised the actions of certain politicians therein, which has aroused their animosity and that of their friends against him, and that the requisition for his extradition, supported by fabricated testimony, is designed solely for the purpose of placing him at the mercy of his political adversaries in Mexico, so that they may, by an abuse of the power of extradition, be enabled to wreak vengeance on him for political offenses. That this and not the pretended embezzlement of $100 is the true ground of his attempted extradition. This answer is sworn to.

Arguments on the exceptions having been heard on the 6th and 7th, the matter was taken under advisement, and the case postponed until the 20th of July.

RULING OF THE COURT.

Upon a careful consideration of the exceptions of the accused to the complaint, I find that under the law and practice of the State of Texas this exception is well taken, but subject to further consideration and revision of United States laws, relating to this charge, and until the final hearing of this cause the exception is temporarily overruled.

The exception to the consular certificate attached to the certified copy of a report of a military investigation in Matamoros appears to be well taken. Section 5271 of the United States Revised Statutes was originally adopted in 1848, and as amended in 1876 prescribes: "That the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be proof that any such paper is authenticated in the manner required by this section."

The certificate should show upon its face that the officer giving it was or is the principal diplomatic or consular officer of the United States resident in Mexico.

The certificate was granted by Consul-General W. P. Sutton, and recited that "he is consul-general for Matamoros, etc.," which is by no means a declaration that he is the principal consular officer of the United States resident in Mexico, as required by law (see Wharton's International Law, sec. 277, p. 821, citing 10 op. Atty. Gen., 501, Coffey, 1863. Tarez *in re*, 7 Blatch., 345). And as parol proof is not admissible to remedy this defect, the exception must be sustained.

I have also carefully considered the motion of counsel for the accused "to fix bail" in this cause, and in the absence of positive authority in law on this subject (see "Bump's Federal Procedure, pp. 723") the motion is denied and overruled.

The objections to the evidence of Lieutenant-Colonel Ignacio H. Sanchez having been overruled, he was permitted to testify.

From his testimony it appeared that better evidence of the statements made by him were in existence in Matamoros (the original official record of the investigation) made at the time of the alleged offense, and for this reason on motion of counsel for the accused the oral testimony of the witness was stricken out.

At this point Mr. John C. Scott, counsel for the relator, proposed to have the cause dismissed, to which the accused, by his counsel, objected on the ground that the examination having been commenced on evidence heard, he was entitled to a verdict. The objection being sustained, the accused was then offered and sworn as a witness in his own behalf.

He corroborated the statements made in his sworn answer, as given above.

This court can not fail to consider the fact admitted by the relator, that the said accused, Paulino S. Preciado, did not flee beyond the frontier limits of the Republic of Mexico immediately after the 14th day of May, 1886, and before he could be dealt with in accordance with the laws of Mexico, as alleged by the Hon. Melquiades Torres in his said requisition, but on the contrary he remained in the city of Matamoros, Mexico, unrestrained of his liberty and performing duty as an officer of the Mexican army, until the 30th day of September of the same year.

And in view of the law and evidence offered in this case, as above set forth, it is considered, ordered, and decreed by this court that the said Paulino S. Preciado be, and he now is hereby, discharged of the accusation as aforesaid, and that he go hence without day.

Witness my hand, this 21st day of July, A. D., 1887.

E. C. FORTO,
*County Judge, Cameron County, Texas, and Extradition Agent for Texas.*

STATE OF TEXAS, *County of Cameron:*

I hereby certify that the foregoing is a correct copy of the original now on file in my office.

Witness my hand this 3d day of November, A. D., 1887.

E. C. FORTO,
*County Judge and Extradition Agent, Cameron County, Texas.*

C. ROMERO,
*Secretario.*

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## No. 881.

### *Mr. Bayard to Mr. Cayetano Romero.*

DEPARTMENT OF STATE,
*Washington, August* 29, 1888.

SIR: I have the honor to acknowledge the receipt of Señor Don Matias Romero's note of the 13th instant, complaining, in pursuance of instructions received by him from Señor Mariscal, of the action of the judge of Cameron County, Texas, in the case of the application made to him on June 28, 1887, by the president of the Ayuntamiento of Matamoros, for the extradition of one Paulino Preciado, formerly a second lieutenant of the Mexican army, on the charge of embezzlement of public moneys. It is alleged that, notwithstanding the sufficiency of the evidence of Preciado's guilt and of the fact that he was under regular prosecution under Mexican law for such embezzlement of funds belong-

ing to his regiment, the application, after examination had on the 6th, 7th, and 20th days of July, 1887, was denied by the said judge on the ground of insufficient proof, and of the irregular certification of the papers by the United States consul-general at Matamoros. Minister Romero argues that under the existing treaty of extradition between the United States and Mexico the evidence submitted was ample; that the alleged irregular certification by consul-general (which consisted in omitting to state that Mr. Sutton, the consul-general, is the principal consular officer of the United States in Mexico), was not irregular inasmuch as the office of consul-general is itself the highest principal consular office in the country, and that "the judge of Cameron County, Texas, had no power to acquit Preciado of the crime of embezzlement," inasmuch as such acquittal could only take place after trial by the Mexican courts which have full and exclusive jurisdiction in the premises.

As to the last point, which embraces a general principle, I may at once remark that the function of trial and acquittal is no part of the official duty of the examining magistrate in cases of extradition, his office being solely to determine whether the case comes under the provisions of existing treaty, and whether the proof adduced would suffice for the arrest and committal for surrender of the accused under the laws of the country where he may be found. To determine these points the evidence of witnesses and arguments of counsel may be heard, but the proceeding is only judicial so far as the determination of the question of proper surrender is concerned, and the law administered is that of the country where the accused is found, so that a decision of non-surrender can no more import acquittal from a charge preferred under the laws of another country than a commitment for surrender could import conviction of the same charge. This point, as presented in Minister Romero's note, should, I submit, be eliminated from the case.

The case of Preciado has been under consideration heretofore. I find on the files of this Department two notes addressed by you, as chargé d'affaires *ad interim*, to me, dated, respectively, the 19th and 21st of July, 1887, in the first of which you requested me to recommend to the governor of Texas the surrender of the said Preciado in conformity with the provisions of treaty applicable to the case, and in the second of which you acknowledged the receipt of my note of the 21st of the same month, inviting your attention to the circumstance that the Government of Mexico, having availed itself of the option given by Articles 2 and 4 of the existing treaty of extradition and made its application directly to the authorities of the frontier State of Texas, it was not in my power to make to those authorities an independent recommendation for surrender in the premises.

It now appears from Minister Romero's note of the 13th instant that the proceedings begun before the county court of Texas are entirely at at end.

The treaty of 1861, to which reference has already been made, provides for the extradition of criminals from one country to the other. Requisitions for surrender are, in general, to be made through the medium of the respective diplomatic agents of the two countries; but in case of crimes committed in the frontier States or Territories, requisitions may instead be made by the local authorities. So also the surrender of a fugitive can, in general, only be made by the authority of the executive of the country where the fugitive is found, but in the exceptional case above mentioned, the surrender may be made by a local authority of a frontier State or Territory.

The application for the surrender of Preciado being for a crime

alleged to have been committed in the frontier State of Tamaulipas, was properly made by a local officer in that State to a local authority in the State of Texas, where the accused was found. No application for his surrender has been through the diplomatic agents of Mexico, and the Executive of the United States was not called on to deliver him up.

The Mexican authorities having thus elected to apply to the authorities in Texas, this Department had no power to interfere in the proceedings so instituted, and now that these proceedings are at an end, I have no power to review the decision of the local magistrate.

Should the Government of Mexico see fit to begin fresh proceedings based upon a new application in either of the modes pointed out by the treaty, it will doubtless receive due consideration from the authority to which it is addressed.

Accept, etc.,

T. F. BAYARD.

# NETHERLANDS.

## No. 882.

*Mr. Bell to Mr. Bayard.*

No. 262.] LEGATION OF THE UNITED STATES,
*The Hague, Netherlands, August* 24, 1887. (Received September 5.)

SIR: Referring to my No. 243, of April 18 last, with reference to the complaint of Mr. E. R. Connell respecting his enrollment for military service at Batavia, I have now the honor to transmit herewith for the consideration of the Department a translation of the reply of the foreign office here, with the original document mentioned therein and described as the report of the lieutenant-colonel commanding the schuttery at Batavia.

As there seems to be an issue of fact involved as to whether Mr. Connell is permanently established at Batavia, I have deemed it prudent to submit the whole subject to the Department for further instruction.

I have, etc.,

ISAAC BELL, JR.

[Inclosure 1 in No. 262.—Translation.]

*Mr. Karnebeek to Mr. Bell.*

MINISTRY OF FOREIGN AFFAIRS,
*The Hague, August* 20, 1887.

Mr. MINISTER: In referring to my communication of the 2d of May, No. 3898, I have the honor to apprize you that according to that which I have learned from the minister of the colonies the inquiry instituted in the Netherlands Indies in relation to the obligation of Mr. E. R. Connell to serve in the "schuttery" at Batavia has demonstrated that the complaint presented on this subject by the said individual is entirely unfounded.

I permit myself to refer in this connection to the contents of a detailed report of the lieutenant-colonel commanding the civil guard at Batavia, of the 9th of June, of which you will find inclosed herewith a translation in the English language.

You will be good enough to observe, Mr. Minister, from this statement that Mr. Connell is compelled by the terms of the provisions of existing legislation to serve in the civil guard the same as all Dutch and foreign inhabitants of the Dutch Indies.

Still the authorities have always extended to him all the consideration possible.

It is, moreover, undeniable that Mr. Connell should be considered as an inhabitant of the Netherlands Indies, considering that by decree of the governor-general of the the 12th of November, 1886, No. 10, he has obtained the authorization required by law to establish himself in this colony.

Accept, etc.,

KARNEBEEK.

[Inclosure 2 in No. 262.—Translation.]

*Report of Lieutenant-Colonel Penn.*

No. 23a.] BATAVIA, *June* 9, 1887.

SIR: I have the honor to acknowledge the receipt of your note No. 2844 of 3d instant, "urgent," inclosing a note from the first Government secretary, as also a letter dated The Hague, 27th April, 1887, No. 141670, from his excellency the minister for the colonies to his excellency the governor-general of Netherlands India, and a dispatch dated 16th April, 1887, from the minister-resident of the United States of America at The Hague to his excellency the minister for foreign affairs.

The subject of this correspondence is a complaint of a Mr. E. R. Connell, an American citizen, to the United States Government, in which it is alleged that this gentleman has been illegally compelled to serve in the Batavia "schuttery."

I have much satisfaction of being in a position at once to supply the Government with the most circumstantial and exhaustive information on the matter. To avoid mistakes and misrepresentations I beg to record the following provisions of the ordinance No. 22, 1838, by which the "schutteryen" has been regulated.

"*Section the 2d.* All Europeans and persons thereto assimilated (Americans being consequently included) and the descendants thereof, having attained their 16th and not yet entered upon their 45th year, are to serve in the 'schuttery.'

"*Section the 4th.* The following exemptions from personal service shall be made:

"Persons only staying for a short time in the place, as also foreigners who have not manifested their intention to settle in the colony, and to whom a delay from one to three months may be granted by the court-martial, the said persons to be called up again on expiration of the said term of three months.

"*Unconditionally.* Persons affected by irremediable complaints or diseases of such a nature as to permanently disable them to bear arms.

"*Conditionally:* Persons affected by diseases or complaints of such a nature as to temporarily disable them to bear arms, but for such period only as the complaint or disease may last.

"*Section the 70th:* Every 'schuttery' corps is to have its court-martial, by whom the enlistment, exemptions, and assessment in the tax are affected and regulated.

"*Section the 44th:* The 'schuttery' is regularly to attend semi-monthly drills from the 1st April to the 30th September of every year. Every member of the force not meeting the requirements for efficiency is to attend drill *at least* once a week during the period aforesaid.

"*Section the 32d:* The object of the 'schutteryen' is in ordinary times to assist in the maintenance of local order and tranquillity in the places in which they have been established, whereas in times of rebellion and danger and in case of the available means proving insufficient their co-operation may also be required to extend beyond these places. In the latter case, as also if in the place to which the corps belongs the state of siege has been proclaimed, the 'schuttery' is first to be placed on the war footing (mobilized) by the Governor-General.

"*Section the 34th:* In case of fire and on the alarm being given the members of the 'schuttery' fully armed and equipped, without any further calls being made, are immediately to proceed to the appointed rallying places."

As to these points I think there is no doubt possible.

In 1883 Mr. H. F. McCreery, a New York merchant, arrived here, starting a firm under his own name for the exclusive purpose of buying up coffee and small produce for the United States market. He managed his business all by himself without any other assistance than a native servant to sweep the office and keep it in order.

In due time Mr. McCreery had to appear before the court-martial, but he was exempted from personal service on account of temporary corporal incapacity duly certified to by the competent medical authorities, and accordingly assessed in the tax.

This is the reason why no objections have ever been raised by Mr. McCreery himself.

On the 4th of April, 1886, Mr. E. R. Connell arrived here in the steamship *Graaf Van Bylandt* in connection with the Peninsular and Oriental Company's mail steamship [*vide* the accompanying number of 5th April, 1886, of the "Batavia Handelsblad" newspaper, under the heading "Aangekomen passageers" (passengers arrived)], to assist Mr. McCreery at first in the capacity of a clerk.

It never appeared that his stay here was of a more temporary character than that of any other Dutchman or foreigner engaged in business in Batavia. His assertion that it should be so, finds itself entirely upset by the undisputed facts that on the 21st of May, 1886, general power of attorney was granted him by Mr. McCreery, as per circular included, signed by Mr. E. R. Connell himself, and in this capacity he is still engaged in business at this very moment.

I think that more conclusive evidence of Mr. Connell being a permanent instead of a temporary resident can scarcely be produced.

Semi-weekly drills is an absolute misrepresentation. According to accompanying order No. 2, issued under your sanction, the recruits, to which Mr. Connell belongs, have only to attend drill on every Monday and on two Wednesdays of every month from the 1st of April to the 30th September, which makes thirty-eight drills in all, whereas semi-weekly drills means forty-eight drills during this period or one hundred and four for the whole year, when it is omitted to mention that there are no drills at all from the 1st of October to the end of March.

The character of the "schuttery" may be found described in section the 32d and 34th as above, as also in—

"*Section the 35th:* The 'schuttery' (when being called upon to turn out) is not to have anything in common with the military garrison in the course of the ordinary daily service;" and—

"*Section the 36th:* The 'schuttery' is to be selected by preference for guards of honor and it is to be avoided as much as possible to have both members of the 'schuttery' and troops from the standing army to mount guard combinedly."

And by a mere reference to these provisions it becomes perfectly evident that Mr. Connell's allegations as to the preparation for permanent military service of those subjected to it will not bear even superficial examination.

Mr. Connell had to appear before the court-martial on the 25th November, and was duly enlisted, having no occasion to plead bodily incapacity either permanent or temporary. He did not raise any objection on account of his citizenship of the United States nor on account of his temporary residence in the place. Of course with a view to the date of Mr. Connell's arrival here and to the situation he then held and is now still holding in business, the latter assertion would never for a moment have held good.

A reference to the date of his arrival and the date of his enlistment may further show that Mr. Connell has had no reason to complain of having been seized upon before he could have made up his mind as to the probable duration of his residence in Batavia.

He was attached to No. 6 company, two officers of which, as also the drill sergeant, speak excellent English.

I should observe that on the 30th December last Mr. McCreery left for New York whence he has not yet returned, leaving Mr. Connell alone in charge, without any assistance.

The business of the firm is chiefly conducted by telegrams, and as a rule telegrams from the United States and Europe are being delivered here at about 10 to 10.30 a. m., so as to be acted upon and replied to in the course of the day.

Most export houses, and Mr. McCreery's in particular, close at 4–4.30 p. m. So long as he is a recruit Mr. Connell has to leave town at 3.30 p. m. six times (four Mondays and two Wednesdays) a month and only four times as soon as he will be efficient.

Besides, there is never any battalion nor recruit drill on mail days, Fridays, nor even on Thursdays, the day immediately preceding the closing of the mails, as will be shown by a reference to the accompanying order No. 2 and the mail tables. Only the No. 4 company is subject to rifle practice on two Fridays of the month, but these being mail days such members of that company as belong to the commercial community are allowed to join another company on another day of the week.

Knowing that the whole business had to be conducted by Mr. Connell alone, he has been verbally allowed by me to turn out a little later, or even not at all whenever any urgent business, which could not well be postponed till the next day, should turn up late in the afternoon, provided he gave me his word as a gentleman that in such cases he could not act otherwise. Besides, in the event of any telegrams or letters reaching his office after he should have left for the drill ground he has been authorized to have such communications immediately sent up to him, and at once to leave the drill ground whenever such letters or telegrams might require immediate action.

Now, it is not to be inferred from what precedes that business in general is in the least interfered with or hampered by strict compliance with the schuttery regulations. In any house there are one or more managers and clerks, some of which are exempted from personal service on account of age, ill-health, or for other legal reasons, whereas in such few exceptional cases where the whole staff of clerks is to serve, drill is attended by rotation with a due regard to the requirements of business.

If, however, for reasons, which I have not to appreciate, any firm, either Dutch or foreign, wishes to save the expense of paying for a staff and thereby run the risk of leaving both business and property altogether in jeopardy in case of sudden death or any other unforeseen accident befalling the only man left in charge, they have to take the consequences of economy being pushed to extremes for the sake of profit, and not to consider themselves released from unconditional submission to the laws of the country in which, by their own free will they have thought fit to earn their livelihood.

The strongest proof of Mr. Connell's allegations being entirely unfounded, as if by

his attendance at drill his firm should be exposed to vexatious losses and commerce in general be hampered and interfered with is that one Mr. T. C. Kraft, a German by birth and nationality, manages the agency of Messrs. Hills, Menke & Co., of Birmingham, in this place, just as Mr. Connell, without any assistance whatever.

In this capacity he is conducting a most extensive import business, thus having to go through many more details than exports ever should require, and this gentleman has always most punctually discharged his "schuttery" duties, at first as a corporal, then as a sergeant, and now as a sub-lieutenant.

Any assertion therefore that Mr. Connell's firm should be exposed to vexatious losses and seriously inconvenienced, or commerce in general be hampered and interfered with by strict compliance with the existing "schuttery" regulations, can only be met by a most emphatic and positive denial.

The very same laws of which he so loudly complains indiscriminately apply to Germans, Englishmen, Frenchmen, Swiss, and Dutchmen, who are all performing their "schuttery" duties in exactly the same way as Mr. Connell has been desired to do without asking their respective Governments to interfere.

Only one instance has come to my knowledge, and even this by mere hearsay, of an Englishman in Soerabaya having appealed to his Government, alleging to have been unlawfully compelled to serve in the "schuttery" some years ago. The reply from the foreign office was to the effect that if any British subject, not acting under orders from Her Majesty's Government, but by his own free will, chose to reside in a foreign country, he had only to comply with the laws and regulations existing in such country and not to depend upon the support of his Government in case of willful infringement of such laws on his part.

It is rather strange that Mr. Connell wishes to obtain some security as to his future, as this leads to the inference, instead of his short temporary stay here he intends to take a residence of at least some length, if not permanently. In conclusion, I may add that Mr. Connell, being a foreigner, has been treated with the utmost kindness both by the officers of his company and by myself. He has repeatedly applied to me for information about service which has been always readily afforded; also, by doing so before having seen the captain commanding his company he had made himself punishable according to law.

For any similar minor breaches of discipline he has never been fined or punished, as I am fully aware of the difficulty to foreigners minutely to observe laws, regulations, and customs, written and described in a language which they do not understand and which thoroughly to learn they have scarcely any occasion. The "schuttery" numbers about 900 of all ranks, and I dare say that no man has ever met with greater kindness and leniency than Mr. Connell on account of his foreign nationality.

By summing up the following conclusions are arrived at: Firstly, that there are no exemptions from "schuttery" duties made by law in favor of American citizens. Secondly, that there are neither any reasons not to consider Mr. Connell as a permanent resident, and that formerly, presently, and in future many members of the "schuttery" have been residing and will reside here for a shorter period than this gentleman. Thirdly, that the nature and the object of the "schuttery" as defined by law, are entirely different from the definition given in the United States minister resident's letter, dated The Hague, 17th April, 1887. Fourthly, that I never heard of any losses having been incurred neither by Mr. Connell's or any other firm resulting from the members or clerks having to attend "schuttery" drills, and that in consequence thereof any such firm should ever be exposed to loss, whereas in my private capacity of secretary to the Batavia Exchange any such occurrences or probability could not have failed to come to my knowledge. Fifthly, that the regular course of business is not hampered or interfered with by attendance to "schuttery" drills.

PENN,
*Lieutenant-Colonel Commanding Batavia Schuttery.*

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## No. 883.

### *Mr. Bell to Mr. Bayard.*

No. 284.] LEGATION OF THE UNITED STATES,
*The Hague, Netherlands, December* 13, 1887.
(Received December 28.)

SIR: I have the honor to report that the revised constitution has at last become binding as the fundamental law of the country.

The Chambers have adopted it, the King has sanctioned it, the offi-

cial journal has published it, and on the 30th ultimo it was solemnly read in the high court of justice at The Hague, also in the courts of justice, in the tribunals, and in the communal houses throughout the Kingdom.

The Chambers will now be dissolved, and will be re-elected conformably to the new provisions before the 1st of April, 1888.

I have the honor to transmit herewith three copies, in the Dutch text, of the law of November 30, 1887, promulgating the revised constitution.*

It will be observed that the most important modifications to the constitution of 1848 relate to the following questions: (1) Succession to the throne; (2) the electoral rights; (3) composition of the States-General; (4) military service.

The Second Chamber, which is now composed of eighty-six members, will hereafter be composed of one hundred members, being one deputy for every 45,000 inhabitants. In place of election every two years the entire Chamber will hereafter be elected every four years.

The First Chamber, which is now composed of thirty-nine members, will hereafter be composed of fifty members, and as at present will be elected by the provincial states.

I have, etc.,

ISAAC BELL, JR.

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No. 884.

*Mr. Bell to Mr. Bayard.*

[Extract.]

No. 286.] LEGATION OF THE UNITED STATES,
*The Hague, Netherlands, December* 16, 1887.
(Received December 28.)

SIR: I have the honor to report that in the discussion of the budget of foreign affairs, which was unanimously voted by the Second Chamber of the States-General on the 8th instant, several deputies demanded information of the minister respecting the provisions of the convention which is said to have been recently entered into between France and Great Britain relative to the neutrality of the Suez Canal.

The minister replied that there was no definite convention as yet, but only a project, upon which France and Great Britain have agreed, and which has been submitted for the consideration and approbation of the several powers which originally took part in the conference upon this question.

He further declared that the provisions of the project were entirely acceptable to this Government, as they provided for the neutrality of the canal and guarantied its free usage in times of war as well as in times of peace.

The provisions protected the works on the canal and recognized the equal rights of all those who navigate it.

They guarded against the impediments which might result from a sanitary or other surveillance of the canal, and fixed the conditions relative to the participation of the several powers in such surveillance.

The text of the project has not been printed and I am therefore unable to furnish you with a copy at this time.

I have, etc.,

ISAAC BELL, JR.

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* Not printed herewith.

No. 885.

*Mr. Bell to Mr. Bayard.*

No. 288.] LEGATION OF THE UNITED STATES,
*The Hague, Netherlands, December* 21, 1887.
(Received January 3, 1888.)

SIR: Referring to my No. 261 of August 23 last, I now have the honor to report that conformably to the views expressed by the parliamentary commission the Government has submitted to the Second Chamber a project of law regulating the work of children.

The following are the principal provisions:

(1) Children under thirteen years of age are prohibited from working in manufactories.

(2) They may be employed in agricultural work when over twelve.

(3) The surveillance of the factories devolves not upon special functionaries but upon medical inspectors.

(4) Under sixteen years of age the working day is fixed at ten hours, and no night or Sunday work is permitted until after the eighteenth year.

The project will probably become a law.

I have, etc.,

ISAAC BELL, JR.

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No. 886.

*Mr. Bell to Mr. Bayard.*

[Extract.]

No. 289.] LEGATION OF THE UNITED STATES,
*The Hague, Netherlands, December* 23, 1887.
(Received January 3, 1888.)

SIR: As public attention seems to be at present drawn to the boundless mischief attendant upon the present process of naturalization in the United States, I have thought it useful to invite your attention to the process of naturalization in the Netherlands as ordered by the laws of this Kingdom.

In accordance with the provisions of article 6 of the Dutch constitution, a foreigner can only be naturalized in the Netherlands by means of a special law.

The general conditions required in order to be naturalized in the Netherlands have been fixed by the provisions of article 5 of the law of July 28, 1850 (No. 44).

The law as it now stands requires that the applicant in order to be entitled to naturalization must be twenty-three years of age, and must have resided within the Kingdom or its possessions during six consecutive years with the declared intention to remain permanently.

The following-described documents must accompany the application which must be addressed to the King in order to obtain naturalization:

(1) The certificate of the birth of the applicant or such other evidence of birth as the laws of the country to which the applicant belongs require to supply the place of the certificate of birth.

(2) The certificate showing a residence in the Kingdom or its possessions for the continued term of six years.

(3) The certificate from the local authorities where the applicant is established, exhibiting his declaration that he has the intention to reside permanently in the Kingdom or its possessions.

Naturalization can also be accorded, as will be seen by reference to the provisions of article 7, by reason of special or extraordinary services to the state.

In such cases the process of naturalization above mentioned is not requisite.

Certificates of naturalization are issued to all persons who are naturalized.

The nationality of the wife and minor children follow that of the individual naturalized.

The enjoyment of rights acquired by naturalization commence from the moment that the provisions of the law by which it is accorded are complied with.

The person naturalized is required to present to the local administration of his district the certificate of naturalization for registration and must also make the declaration that he accepts naturalization.

In case of the naturalization of a person for special services who reside abroad, the certificate of naturalization should be sent to the minister of foreign affairs for registration. In such cases the naturalization will expire in six months if the individual does not signify his acceptance.

Citizenship in the Netherlands is vacated or lost under either of the following conditions:

(1) In accepting naturalization in another country.

(2) In rendering foreign military service without the consent of the Dutch Government or in accepting public service on the part of a foreign government.

(3) By a sojourn of five years in a foreign country with the known intention not to return.

The intention to return is considered to exist in all cases where the sojourners abroad are connected with Dutch commercial establishments.

Trusting that this information may be of some importance in case of future legislation in the United States touching citizenship and naturalization,

I have, etc.,

ISAAC BELL, Jr.

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No. 887.

*Mr. Bayard to Mr. Bell.*

No. 113.] DEPARTMENT OF STATE,
*Washington, February* 3, 1888.

SIR: Referring to my instruction No. 86, dated April 2, 1887, I have to say that a copy of your dispatch No. 262, of August 24, 1887, was sent to our consul at Batavia on October 4, with instructions to communicate the statements of the Netherlands authorities to Mr. Connell, in order that he might have an opportunity to answer such of their explanations and allegations as conflict with the case as presented to the Department.

The Department is now in receipt of a dispatch from the consul at

Batavia inclosing a further communication from Mr. Connell with regard to his case, a copy of which I inclose, with its accompanying extract from the London and China Express of September 16, 1887.

The lieutenant-colonel commanding the "Batavia schuttery" having apparently assumed that Mr. Connell's complaint was of illegal enrollment, it is desirable in the first place to point out that this is a misapprehension, and that neither Mr. Connell nor this Department has questioned his treatment as being exceptional in any way or as being different from what was required by the local law of Batavia.

The question presented by Mr. Connell and by this Department for the consideration of the Netherlands Government is whether or not the existence of such a local law is justifiable under international usage. The precise state of the case is now clear, and the question is therefore presented free from any complication as to differing views of the facts.

It appears that the "schuttery" is a local corps in which all residents of Batavia, whether the subjects of the Netherlands Government or not, are compulsorily enrolled, and that that guard may be called upon to take part not only in the defense of Batavia but also in expeditions to repress disorder in neighboring provinces.

It is well settled by international law that foreigners temporarily resident in a country can not be compelled to enter into its permanent military service. It is true that in times of social disturbance or of invasion their services in police or home guards may be exacted, and that they may be required to take up arms to help in the defense of their place of residence against the invasion of savages, pirates, etc., as a means of warding off some great public calamity by which all would suffer indiscriminately. The test in each case, as to whether a foreigner can properly be enrolled against his will, is that of necessity. Unless social order and immunity from attack by uncivilized tribes can not be secured except through the enrollment of such a force, a nation has no right to call upon foreigners for assistance against their will.

There is no evidence in the possession of this Department tending to show that the condition of affairs at Batavia is such as to bring the question within the fair meaning of the rule as I have stated it above. It is not understood that the condition of affairs in Java is such that the Dutch Government finds itself unable either to secure social order or to prevent the destruction of life and property by savages without calling upon all the inhabitants indiscriminately for assistance, and, short of some such condition of affairs as this, it is the belief of this Government that the general principles of international law would not warrant the Netherlands Government in resorting to so extreme a measure.

The Government of the United States has always favored the residence of its citizens abroad for commercial purposes connected with this country. Such a residence is conducive to the interests not only of the United States but also of the country in which such agents may temporarily reside.

Although the right of the Dutch Government to expel foreigners from their control can not be disputed, the Government of the United States can not but regard it as a somewhat inhospitable manner of dealing with strangers who reside in the Dutch provinces for the purpose of commerce to insist as a condition of their residence that they shall endure compulsory military service, which may, under some circumstances, become extremely dangerous and onerous.

You may bring this matter verbally to the attention of the minister of foreign affairs, and explain to him in a frank and friendly manner

the views expressed in this instruction and impress upon him that we do not regard the position of Mr. Connell as in any way exceptional.

The desire of this Government is now, as it has always been, to extend its protection to those of its citizens residing abroad, and, by facilitating commerce between this country and the Netherlands, to continue to keep up the good understanding which has so long and so happily existed between the two countries.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 113.]

*Mr. Pels to Mr. Porter.*

No. 215.] CONSULATE OF THE UNITED STATES OF AMERICA,
*Batavia, November* 29, 1887.

SIR: I beg to own receipt of your letter No. 87, dated October 4, 1887, with inclosure, of which I took due note and contents of which I transmitted to Mr. Ed. R. Connell.

I now beg to inclose a letter from this gentleman addressed to me, dated November 28.

I have, etc.,

P. PELS.

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[Inclosure 2 in No. 113.]

*Mr. Connell to Mr. Pels.*

BATAVIA, *November* 28, 1887.

SIR: Your letter 26th instant inclosing copies of correspondence submitted to the Department of State at Washington relating to my service in the "schuttery," received. In reply I beg to state:

First. That on the 26th of January last I wrote through Consul Hatfield, as per copy herewith, requesting information as to whether or not the Dutch Government could compel me to do military service, and that neither before nor since, with the exception of my letter June 11, of which I also inclose press copy, have I made or authorized to be made any statement whatever on the subject. The United States Government's action was first brought to my notice by a paragraph in a local newspaper. I subsequently read a copy of our minister to Holland's letter to the Dutch colonial minister, calling his attention to the matter, and I immediately wrote the Department pointing out the inaccuracies therein.

Second. The claim was never put forward by or for me that my treatment was different from that of other foreigners resident here, but that there is the greatest dissatisfaction with the existing law the accompanying copy of an article which appeared in the London and China Express of September 16 last will go far to prove.

Third. I do not pretend to be a temporary resident only, my expectation being to remain here for an extended period; otherwise I would not have considered the matter of sufficient importance to justify a complaint.

Fourth. It is claimed that when called before the court-martial for enrollment I raised no objection on account of citizenship of the United States, the contrary being true, I having protested at the time against the Dutch Government's compelling a foreigner to do military service.

Fifth. The regulations governing the "schuttery" of especial interest are, according to law No. 22, year 1838, as follows:

All Europeans and those thereto assimilated, between the ages of sixteen and forty-five, unless physically incapacitated or temporarily resident, and excepting certain Government officials, must serve. Those excused by reason of bodily infirmities or other causes must pay an assessment equivalent to about three-fourths of one per cent. of their income.

The primary duty of the "schuttery" is to preserve order in the locality where it has been organized, but in cases of insurrection or other danger to the Government it may be mobilized by the governor-general, and sent away to the disturbed section, in which case it is placed on the same footing as the regular army in every respect. The governor-general may also order the mobilization of the "schuttery" should the place to which it belongs be declared in a state of siege, but it will not in that

case be called upon to perform the routine garrison duties of the regular troops. Where practicable the "schuttery" and the regulars are not to mount guard together. The mobilization of the "schuttery" to be contingent on an insufficiency of regulars.

The resident or assistant resident may, at the request of the military authorities, call out the "schuttery" for active service, provided, in his judgment, the regular troops are not sufficient, and must immediately inform the governor-general of his action.

The "schuttery" is to attend all fires to protect property.

At parades, etc., in conjunction with the regular troops, the "schuttery" to have the right of line and to be given the preference for guards of honor.

Non-attendance at drills, parades, fires, or courts-martial is punishable by fines, imprisonments, or, ultimately, expulsion from the Dutch possession.

The remainder of the law consists of details as to dress, etc., of no great importance.

Sixth. The business of the house I represent is conducted chiefly by telegraph, and there is no especial time at which these cables arrive, but they may and do arrive at any and all hours of the day. The telegrams are in cipher, and though brought from the office to the drill ground would be of no value without a code, and, again, before they could be translated business houses would be closed. The busiest part of the day is between 2 p. m. and 4.30 p. m., and as it takes from one and a quarter to one and a half hours to go to and from the grounds no business can be done from the time of leaving the office to attend drill until the following day. It is an unquestionable fact, which no merchant would gainsay, that by not executing promptly orders for the purchase or sale of produce I might cause my firm vexatious losses. There is not a mercantile house which is not seriously inconvenienced by the operation of the "schuttery" law, and many and loud are the complaints.

The "schuttery" law, though sufficiently irksome and detrimental to business interests in times of peace, becomes many fold more so in the event of hostilities. Though Batavia itself might be in a state of perfect quietness, and commercial affairs here in no danger of derangement, the "schuttery" might, under the present law, be ordered to put down a native uprising or to repel invasion at some one of the other islands of the Dutch East Indies. The mobilization of the "schuttery" makes it part and parcel of the regular army, as is explicitly set forth in sections 32 and 33 of the law, and therefore its organization is both with a view to afford protection to the place in which it is formed and to incorporation with the regular forces in case of necessity.

It is the statute, and not an illegal enforcement of it, to which I object. A law interfering with the personal liberty and commercial interests of foreigners, compelling them to serve a flag not their own, should be abolished.

In opening this question I was actuated by no desire for cheap local notoriety at the expense of unnecessary trouble to the United States Government, and therefore, though fully persuaded of the injustice of the "schuttery" law, simply called attention of the Government to it, leaving it to act as it thought best, but as representations have been made that I have misstated the actual facts, in self-defense I must enter more into details, and so request you to transmit this letter to the State Department, Washington.

Yours, very truly,

EDW. R. CONNELL.

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[Inclosure 3 in No. 113.—Extracts from the London and China Express, September 16, 1887.]

*The schuttery in Java.*

[Communicated.]

In your issue of June 24 it is casually mentioned in a short paragraph that Britishers in Java have to turn out twice a week to drill and practice rifle-shooting. To your readers at home or in the British Eastern possessions this may appear to be no particular hardship, the idea of "military evolutions" being probably associated with the usual exercises of a volunteer corps. When, however, they learn that in the "schuttery" or compulsory volunteer forces, as it is facetiously termed by its chief, not more than 10 per cent. at most can lay claim to being Europeans, the remainder being composed of Eurasians, many of whom are much darker than pucka natives, the matter wears a different complexion. To the Anglo-Indian mind, to be drilled by a nigger without shoes would be very derogatory to a European, and this is one of the hardships we have sometimes to undergo.

The drilling season is from April 1 to the end of September, during which period every foreigner, unless incapacitated by physical infirmity or over forty-five years of

age, has to turn out from 4 to 6 p. m. four times a month, or, if a recruit, as most Englishmen naturally are, six times a month. To be on parade by 4 p. m. necessitates leaving the business quarter of the town shortly after 3 p. m.

I leave it to business men in India and China to imagine the inconvenience caused by such exodus at the busiest part of the day; on a Wednesday the offices are practically empty, no one beyond the chief, who escapes through advancing age, and one or two Chinese clerks being left. The fines for absences without special permission or medical certificate are 2.50 florins the first time, 5 florins the second, 10 florins the third, and a fourth absence renders one liable to two days' imprisonment. It is whispered that Englishmen are looked upon as a valuable source of revenue in that respect, the funds of the corps being very low. At the present moment rifle-shooting is suspended, there being no money to buy cartridges with, while some musical instruments are said to be lying in bond at Sandjong Priok, there being no money available to pay the customs duty on them. Perhaps this impecuniosity may explain a Britisher having been fined 5 florins for smiling, recently, and an English (Straits) Eurasian 10 florins for starting off with his right foot first instead of his left foot. The uniform, which consists of a many-buttoned jacket, like office boys at home affect, except that it is of white drill, and a peaked cap like telegraph boys in the city wear, had to be provided by the schutter at his own expense, which, together with gharry hires to the ground, amounts to no inconsiderable sum during the season.

Besides the inconvenience, annoyance, and expense incurred, the absurdity of the whole thing is an additional grievance, as it stands to reason that in the event of a fight against a European foe no Britisher would turn out, while a native rebellion seems almost out of the range of probability, judging by the puny and diminutive appearance of the natives, at this end of the island at least. If Singapore, with a large floating population of the riff-raff of China, can be kept in order by a small police force and comparatively a handful of troops, surely Batavia, where soldiers seem omnipresent, has nothing to fear from its Lilliputian inhabitants.

To any one who has seen our volunteer corps, either at home or abroad, likewise the magnificent native regiments of British India, the Batavia schuttery presents a sorry and ridiculous spectacle, and all of us here cordially agree with your remarks that it is quite time we politely but firmly petitioned that the law might be altered. This we understand some of the British community have the intention of doing. Let us hope the home Government will back them up. The United States have protested against their subjects serving, which lead, we trust, the other Governments will follow.

BATAVIA, *August* 2.

EDITORIAL ON ABOVE ARTICLE.

We readily give publicity to the communication on the schuttery, or kind of militia, which every foreigner resident in Netherlands India knows to his cost is in force in those dominions. We do this in the hope that if some of "that fierce light" is thrown on it, the system will be discontinued. It is a relic of the time when the English at Samarang formed a volunteer force for the protection of themselves and their property, during the last great rebellion in Java. That there is no reason for it except that it causes considerable annoyance to every European, Netherlanders included, is conclusively shown by the communication we insert. If there were any necessity for it or any practical end gained by it we would as willingly give our support to the authorities as we are compelled to blame them now, but it is really nothing but a senseless farce, and the sooner it is discontinued the greater credit to the Government. It is really time, however, that other Governments follow the lead of that of the United States in remonstrating against the practice, by which their nationals have to submit to so many indignities. The absurdity is shown in the fact that not even cartridges are served out this season to carry out the necessary rifle practice. A rifle is a useful weapon in war times, but among other things it requires proper feeding and use in times of peace.

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[Inclosure 4 in No. 113.]

*Mr. Connell to Mr. Halfield.*

BATAVIA, *January* 26, 1887.

DEAR SIR: I beg you to call the attention of the State Department, Washington, to a law in force here requiring Dutchmen and foreigners alike to serve in the schuttery, the local militia. Having lately been enrolled I would request to be informed whether this Government can compel me, an American-born citizen, to do military

service. Attending drills interferes greatly with business, and the schuttery being under the entire control of the governor-general may, in case of an emergency, be ordered to any of the Dutch possessions in the East Indies.

Yours, very truly,

EDW. R. CONNELL.

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[Inclosure 5 in No. 113.]

*Mr. Connell to Mr. Porter.*

BATAVIA, *June* 11, 1887.

DEAR SIR: Since my letter to the American consul at this port, dated January 26 last, *re* service in the "schuttery," I have seen a copy of a communication by the Hon. Isaac Bell to the Dutch colonial minister in which it is stated that "schuttery" service is preparatory to incorporation in the regular Dutch army. It does not hold true in peaceful times, but according to "Staatsblad" 1838, No. 22 Derde Hoofdstuk, in cases of native uprisings or other disturbances, the "schuttery" can be mobilized and sent for service outside of their local headquarters, in which case they are to be placed on the same footing and will be held equally responsible with the regular army. Mr. Bell also mentioned compulsory semi-weekly drills. The drills take place six times a month for the months of April to September, inclusive. That they interfere greatly with the business duties of one in my position is unquestionable. Representing as I do, an American house whose business transactions are conducted principally by cable, my absence at drill might subject them to serious loss.

Yours, respectfully,

EDW. R. CONNELL.

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## No. 888.

*Mr. Bell to Mr. Bayard.*

No. 300.] LEGATION OF THE UNITED STATES,
*The Hague, March* 3, 1888. (Received March 16.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 113, under date of February 3, 1888, relating to the compulsory enrollment of Mr. Connell in the Dutch schuttery at Batavia, which was the subject also of your instruction No. 86, of April 2, 1887, and of my dispatch No. 262, of August 24, 1887.

After having carefully considered your instruction I called upon the minister of foreign affairs and presented to him verbally and in a frank and friendly manner, the views expressed by you.

The minister of foreign affairs said that in his opinion and in the opinion of his Government there was nothing in the law or its operation which in any way conflicted with international usage, and that it would not therefore be possible for him to enter into any investigation of the law or its operation with a view to its modification.

His excellency urged that the services exacted were simply of a police nature for mutual protection, and as the organization had never at any time been mobilized or mustered into the regular military service of the country or such an event even contemplated, such an emergency could not be discussed.

His excellency did not contend that the remoteness of the colony from the home Government prevented it from being completely administered within the range of international law, nor did his excellency intimate that the disturbed state of affairs in Atcheen had in any way affected the condition of affairs at Batavia.

Without citing any circumstance or condition in justification of the provisions of the law, his excellency concluded by saying that a sim-

ilar law existed in the Netherlands, and that such laws were regarded by this Government as necessary and not in conflict with international usage.

In my opinion there is no excuse for the contention that it is a case of necessity.

The whole Dutch schuttery system is only machinery for effecting a saving of national expenditure, and has no positive value for the Government beyond its economical features.

It further seems to me not only illogical, but absolutely irrational, for this Government, while providing that citizenship must be vacated by Dutch subjects who render foreign military service without the consent of this Government, to resolutely insist upon considering all foreign residents within its jurisdiction as liable to compulsory military service.

It is for the Department to say whether it accepts the conclusions of the minister of foreign affairs, that there can be no well-founded objection to the principles or operation of the law.

I am, etc.,

ISAAC BELL, JR.

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No. 889.

*Mr. Bayard to Mr. Bell.*

No. 118.] DEPARTMENT OF STATE,
*Washington, March* 26, 1888.

SIR: Your dispatch, No. 300, of the 3d instant, reporting the views of the Dutch minister of foreign affairs, expressed to you in your personal interview with him relative to the course of the Netherlands in enrolling Mr. Connell, an American citizen resident in Batavia, for military duty in that place, has been received.

Your observations on the Dutch minister's views point out very clearly the anomaly in the Dutch practice, but as Mr. Connell has withdrawn the basis of our complaint, the Department, while not assenting to the position of the Dutch Government as to the principle involved, is willing that the question may rest until another case revives it.

I am, etc.,

T. F. BAYARD.

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No. 890.

*Mr. Bayard to Mr. Roosevelt.*

No. 24.] DEPARTMENT OF STATE,
*Washington, September* 28, 1888.

SIR: I inclose herewith for your information a copy of a dispatch from our consul at Amsterdam, relative to the decree of the Netherlands Government prohibiting the importation of hogs and hog products into that country. A set of the Congressional documents relating to the subject is also transmitted to you, separately, by to-day's mail.

After making yourself familiar with the subject, you are instructed to confer with the minister for foreign affairs with a view to securing for American exporters of live hogs and hog products at least equal facilities with those of any other country for evidencing entirely healthy

origin and character of such exports when destined to the Netherlands for consumption or transit.

You will particularly endeavor to obtain for transmission to this Department, in duplicate, copies of the rules which are to be framed under the royal decree in question.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 24.]

*Mr. Eckstein to Mr. Rives.*

No. 709.] CONSULATE-GENERAL OF THE UNITED STATES,
*Amsterdam, September* 13, 1888.

SIR: I have the honor herewith to report to you that by a royal resolution, dated the 14th ultimo, the import and transit from foreign countries (buitenlands) into and through the Netherlands of hogs, of fresh and salted pork (varkensvleesch), and of unmelted fat, hoofs, manure, and other offal of hogs is prohibited.

This "resolution" also provides that "when special reasons make it necessary to deviate from this prohibition, the minister of the interior, co-operating with the minister of finance, can allow such deviation under such regulations as shall be a safeguard against the bringing in of contagious diseases to which hogs are subject."

This "resolution" was issued on the 20th ultimo and went into effect five days thereafter.

Whether any, or any serious, inconvenience or injury is likely to result from this interdiction to American exporters of any hog-products to this country it would be rather premature for me to say.

The regulations or conditions under which the articles in question will hereafter be allowed to be imported or in transit have, as yet, not been made public.

From what I have been able to learn on this point so far they will provide the necessity to produce certain written proof which satisfactorily shows that the articles about to be imported or intended for transit come from a place or neighborhood which is not infested with any contagious disease to which hogs are liable.

I might further add that I have reasons to be inclined to the belief that the authorities charged with the execution of the "royal decree" will be induced and disposed to make such regulations in pursuance thereof as may be complied with without causing the trade any very great hindrance; and that American exporters to this country of any of the articles under consideration need not for the present, at least, apprehend that their interests will suffer very much in consequence of the action of this Government as herein reported. Any further particulars relating to the matter which may come to my notice will be promptly brought to your knowledge.

I am, etc.,

D. ECKSTEIN.

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## No. 891.

*Mr. Roosevelt to Mr. Bayard.*

No. 23.] LEGATION OF THE UNITED STATES,
*The Hague, September* 28, 1888. (Received October 8.)

SIR: I inclose copy of a letter from Mr. James Hector advising me of the refusal of the Government of the Netherlands to permit the importation of American bacon, although duly certified to come from a place free from disease to which hogs are subject. Copy of the certificate and translation are also inclosed. I addressed a communication to the minister of foreign affairs, of which copy is also inclosed, and await reply and any instructions from you.

I am, etc.,

R. B. ROOSEVELT.

[Inclosure 1 in No. 23.—Memorandum.]

*Mr. Hector to Mr. Roosevelt.*

ANTWERP, *September* 27, 1888.

SIR: I take the liberty to inform your excellency that, through a misunderstanding or misreading of law, my shipments of American bacon, directly imported here from the United States, have been refused entrance in Holland (Maastricht).

It will be useless to say that the Dutch Government can not prohibit American bacon, unless by special law. I am a regular shipper to Holland and am now at a loss what to do, all railroad companies refusing carriage. Would your excellency kindly see the competent authorities on this subject and request them to give more lucid instructions to their employés?

I am, etc.,

JAMES HECTOR.

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[Inclosure 2 in No. 23.—Translation.]

*Certificate of the mayor of Antwerp.*

MUNICIPALITY OF ANTWERP, *Second Bureel:*

The undersigned, mayor of the city of Antwerp, declares that the box containing dry-salted American bacon, marked F. H. 369 *y*, sent by rail to Valkenburg, accompanied by this certificate, comes from a place where there was no epidemic whereof hogs generally suffer.

For the mayor: The sheriff,

J. LANDOUT.

ANTWERP, *September* 20, 1888.

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[Inclosure 3 in No. 23.]

*Mr. Roosevelt to Mr. Karnebeek.*

AMERICAN LEGATION,
*The Hague, September* 28, 1888.

SIR: From the inclosed letter from Mr. James Hector it appears that bacon shipped to him from America was refused admission to Holland.

By the certificate of the burgomaster of Antwerp (copy also inclosed) it seems the bacon came from a place where there was no hog sickness.

May I ask your good offices in the matter and any explanation or direction that will assist in avoiding similar misunderstandings in the future?

Renewing, etc.,

R. B. ROOSEVELT.

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## No. 892.

*Mr. Roosevelt to Mr. Bayard.*

No. 34.] UNITED STATES LEGATION,
*The Hague, October* 6, 1888. (Received October 17.)

SIR: I beg the favor of further instructions in reference to passports. If the forms issued in the substitution of the former ones are to be strictly and literally followed, many American citizens must go unprotected, and, as strict regulations are being made in some portions of Europe, this may prove a serious hardship. There is an uneasy feeling among those who reside here, more marked even than among those who are traveling. Is it the wish of the Department that I should furnish protection to these, and, if so, may I modify the form to meet the case? I have at present an application for a passport from a person born

abroad and taken while a child to the United States by his father, who was duly naturalized. He holds an old passport. Have I authority to modify the form to suit his case? In other words, and in general terms, I beg to inquire if any discretion in the matter of modifying the late forms is allowed to diplomatic officers?

I am, etc.,

R. B. ROOSEVELT.

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No. 893.

*Mr. Rives to Mr. Roosevelt.*

No. 25.] DEPARTMENT OF STATE,
*Washington, October* 9, 1888.

SIR: Your dispatch No. 23, of the 28th ultimo, reporting your action relative to the complaint of Mr. James Hector, that the Netherlands Government had refused to permit an importation of American pork, although duly certified to be from a place free from the diseases to which hogs are subject, has been received.

The Department approves of your course in bringing the matter to the attention of the foreign office, and will await a further report from you on the subject.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

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No. 894.

*Mr. Roosevelt to Mr. Bayard.*

No. 36.] LEGATION OF THE UNITED STATES,
*The Hague, October* 11, 1888. (Received October 22.)

SIR: In compliance with the instructions of your No. 24, of September 28, I have the honor to inform you that after studying the documents sent to me I addressed the inclosed communication to the minister of foreign affairs. and am now awaiting his reply.

I am, etc.,

R. B. ROOSEVELT.

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[Inclosure in No. 36.]

*Mr. Roosevelt to Mr. Karnebeek.*

AMERICAN LEGATION,
*The Hague, October* 10, 1888.

SIR: I have been instructed by the Government of the United States to request an interview with your excellency in relation to the royal resolution lately adopted excluding foreign hogs and their products from the Netherlands, and in reference to the rules and regulations which may be made for the purpose of carrying it into effect.

I am also instructed to obtain, if possible, for transmission to my Government, duplicate copies of the rules and regulations which have been framed or are to be framed under the royal decree in question.

If these rules and regulations have already been formulated it might be preferable,

if agreeable to yourself, that I should be favored with copies before occupying your time with explanations, but if they have not been completed I feel assured that I can satisfy you that the products of the hog coming from America are peculiarly free from disease and even safer than those of this country for human consumption.

Placing myself entirely at your disposal in the matter, I beg, etc.,

R. B. ROOSEVELT.

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## No. 895.

*Mr. Roosevelt to Mr. Bayard.*

No. 37.] LEGATION OF THE UNITED STATES,
*The Hague, October* 20, 1888. (Received October 30.)

SIR: In reference to the case of Mr. Hector, who complained of the refusal of the railways to carry hog products which came from America, mentioned in my dispatch No. 23, of September 28, I have reason to believe that he had not complied with the requisite forms, and having so informed him, have heard nothing further in the matter, and shall do nothing further at present.

I am, etc.,

R. B. ROOSEVELT.

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## No. 896.

*Mr. Roosevelt to Mr. Bayard.*

No. 38.] LEGATION OF THE UNITED STATES,
*The Hague, October* 20, 1888. (Received October 30.)

SIR: I have received the inclosed communications which I asked for under the instructions of your No. 24, of September 28, on the subject of the exclusion of hog products from the Netherlands. They consist of copies of the regulations adopted by the ministers of the interior and of finance in 1885, the general regulations adopted by the present minister of internal affairs, and the special exception as to ships in port. You will observe by the last line of No. 2 that the matter is by no means so serious as was at first supposed, the change being merely of form. Under these circumstances I have not pressed my request for a personal interview, believing that the ground of your dispatch was effectually covered, and I shall await your further instructions before doing so, as, from the tenor of all communications received by me, I judge that there is no unfriendliness among Netherlands officials towards the products of the American hog.

I am, etc.,

R. B. ROOSEVELT.

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[Inclosure 1 in No. 38.—Translation.]

*Regulations relative to the importation of cattle.*

MINISTRY OF THE INTERIOR AND FINANCE,
*The Hague, March* 11, 11, 1885.

The ministers of the interior and finance taking into consideration the official information which has been received showing that epidemic diseases are observed among cattle of various neighboring empires, and in consequence of the favorable state of health of the Netherlands stock of cattle in the Netherlands, and in the interest of com-

merce and industry, acting under articles 1 and 3 of the King's resolution of December 8, 1870 (Staatsblad No. 194), and of articles 1 and 2 of the King's resolution of April 9, 1884 (Staatsblad No. 48), do hereby notify those whom it may concern:

(1) That no dispensation of the prohibition of import and transit of meat-cattle, sheep, rams, goats, and hogs of foreign countries can be allowed, except by special exception and by approval of the minister of internal affairs.

(2) That beginning with March 15 next, the King's commissioners are authorized to allow dispensation of the prohibition of import and transit of fresh hides, fresh and salt meat, raw fat, manure, raw wool, hair, legs, horns, and all products of meat-cattle, sheep, rams, goats, on the following conditions of import and transit:

(*a*) That on request there shall be furnished a description of the quality and the quantity of the article for import and transit and the places of origin and destination.

(*b*) That on request a certificate shall be furnished which shows sufficiently that the articles for import and transit come out of a place not afflicted by epidemic disease.

(*c*) That the goods are properly packed or covered, and during transport have not come in contact with other cattle, and are not placed in wagons or boats or separate inclosures not designated for the transport of cattle.

(*d*) Reserving, however, the right to require such precautions of a particular nature in the interest of protection from epidemics for any special occasion and for local or other circumstances which the King's commissioners may prescribe as to the transport and handling of the articles for import and transit as they shall think necessary.

W. S. HEEMSKIRK,
*The Minister of Internal Affairs.*
W. S. GROBBEE,
*The Minister of Finance.*

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[Inclosure 2 in No. 38.—Translation.]

*Regulations relative to the importation of hogs and hog products.*

MINISTRY OF INTERNAL AFFAIRS,
*The Hague, August* 21, 1888.

The minister of the interior, acting under the resolution of August 14, 1888 (Staatsblad No. 142), which also refers to the royal resolution of April 9, 1884 (Staatsblad No, 48), and forbids the import and transit of hogs, fresh and salt pork, lard, legs, manure and other products of hogs from foreign countries, which resolution goes into operation the 26th instant, brings to the knowledge of whom it may concern that the King's commissioners in the different provinces are authorized to allow exceptions from the prohibition of import and transit from foreign countries of fresh and salt pork, lard, legs, manure, and other products of hogs, under the conditions named in Sub. 2, *a*, *b*, *c*, and *d* in the regulations of the ministers of the interior and of finance of March 11, 1885 (Staatsblad of March 12, 1885), except that in the condition Sub. *b*, for "a place not afflicted by epidemic disease of cattle," must be read "a place not afflicted by epidemic disease of which hogs suffer."

MACKAY.

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[Inclosure 3 in No. 38.—Translation.]

*Circular of the minister of internal affairs.*

MINISTRY OF INTERNAL AFFAIRS.

The minister of internal affairs has addressed, under date of September 4, 1888, No. 3147, section medical police, the following circular to the King's commissioners:

I have the honor to inform you that I have no objection that one or two hogs should be kept and fed on board of sea-going vessels, provided they are not to be unloaded, but killed on board, or exported again with the same vessel, or to the use of fresh, dried, and salted hog meat and pork as provision on board, without, however, exempting them from the prohibition in the King's resolution of August 14, 1888 (Staatsblad No. 142), as to free import.

The inspectors of taxes in the different provinces are hereby notified of this regulation.

MACKAY,
*The Minister of Internal Affairs.*

No. 897.

*Mr. Rives to Mr. Roosevelt.*

No. 30.] DEPARTMENT OF STATE,
*Washington, October* 22, 1888.

SIR: I have to acknowledge the receipt of your No. 34, of the 6th instant, inquiring whether the form of application for a passport issued by this Department can be modified to meet a particular case which you state, and generally "whether any discretion in the matter of modifying the late forms is allowed to diplomatic officers."

The forms in question have been drawn up with great care to meet the usual cases of application for passports and are in conformity with the requirements of law and with the settled doctrine of this Department in regard to the evidences of possession and retention of American citizenship by persons abroad, as expounded consistently and continuously since the organization of our Government.

Without knowing the character and extent of the modifications you have in view, and whether the discretion to which you refer relates to questions of law or to mere details of facts, it is not practicable to give you general instructions in response to your inquiry.

The particular case to which you advert is that of "an application for a passport from a person born abroad, and taken while a child to the United States by his father who was duly naturalized. He holds an old passport."

Had you stated the facts of the case, the name and age of the applicant, the time of the father's naturalization, the date and place of issue of "the old passport," and the name of the person to whom issued, it would have been practicable to give you precise instructions in the case. All the facts being proved in conformity with law and the *animus revertendi* of the applicant being established, simple interlineation and erasure may be resorted to in order to adapt the general form to the exigencies of a particular and lawfully exceptional case, but no discretion as to the fundamental requirements of fact and law upon which the right to citizenship depends could be permitted.

The Department could not delegate to its agents an authority which it does not itself possess. Too much care can not be exercised to prevent a passport, which is the international evidence of citizenship in foreign parts, from falling into the hands of persons not entitled thereto Hence, in doubtful cases, the Department expects reference to it of all the facts necessary to enable it to reach a decision.

The volumes of the Foreign Relations for several years past may be consulted by you, and numerous cases found reported therein will serve to show the scrupulous and minute care of the Department in dealing with this class of questions.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

## CORRESPONDENCE WITH THE LEGATION OF THE NETHERLANDS AT WASHINGTON.

### No. 898.

*Mr. de Weckherlin to Mr. Bayard.*

[Translation.]

LEGATION OF THE NETHERLANDS,
*New York, November* 16, 1887. (Received November 18.)

Mr. SECRETARY OF STATE: The governor of the Province of North Holland informs my Government that for some time past a number of subjects of the Netherlands, belonging to the army of that country, but being at home on indefinite leave of absence, have avoided the fulfillment of their military obligations by shipping in ports of the Netherlands, on board of foreign vessels, without having previously obtained from the ministry of war the permission required for such an engagement by article 129 of the law of the Netherlands of August 19, 1861, No. 72.

At the same time the aforesaid governor states that it is probable that the consul of the United States of America at Amsterdam, when he inscribes natives of the Netherlands upon the crew-list of American merchant-vessels, does not require those who are of the age required by law for serving in the army to show a document furnishing evidence of their status in this respect, which document may be procured by parties interested at the city hall.

I am instructed, Mr. Secretary of State, to communicate to you the foregoing, and to express the hope that you will have the kindness to call the attention of the consular officers of the United States of America in the Netherlands to the provisions of article 129, which I have just mentioned.

Be pleased, etc.,

G. DE WECKHERLIN.

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### No. 899.

*Mr. Bayard to Mr. de Weckherlin.*

DEPARTMENT OF STATE,
*Washington, February* 6, 1888.

SIR: I had the honor to receive in due course your note of the 16th of November last, in which you refer to cases arising where Netherlanders liable to military duty ship in Netherlands ports on board foreign vessels without having previously obtained the permission of the ministry of war under article 129 of the existing Dutch law of August 19, 1861, to which you express the hope that this Department will call the attention of the consular officers of the United States in the Netherlands

The urgent pressure of business has prevented earlier attention to your note.

Upon consideration of the suggestion put forth, certain difficulties appear in the way of acceding to the request of your Government. The functions and duties of consular representatives of this Government in

regard to the shipment and discharge of seamen of American vessels are prescribed and defined by the existing statutes of the United States, and under these it is not contemplated that such consular officers shall intervene, as officers of the foreign governments *pro tanto* (which they would inferentially be in such case) to aid in the enforcement of their military or other municipal statutes. Moreover, assuming that any duty of this nature might really rest on the consul, it would entail upon him a quasi-judicial function involving the construction of foreign laws as to citizenship and military service, and their application to the individual cases before him.

I could not, nor do I suppose your Government would, regard it as admissible that a consul, in such matters, should exercise a jurisdiction not conferred by treaty or contemplated by the statutes of his own country.

I regret, therefore, that, as the matter is presented, I perceive no way of acceding to the courteous suggestion of the Netherlands Government.

Accept, etc.,

T. F. BAYARD.

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No. 900.

*Mr. de Weckherlin to Mr. Bayard.*

[Translation.]

LEGATION OF THE NETHERLANDS,
*Washington, March* 17, 1888. (Received March 19.)

Mr. SECRETARY OF STATE: I am instructed to have recourse to your accustomed kindness with a view to obtaining some information as to whether, according to the laws in force in this Republic, Alexander Menist, who was born in Philadelphia on the 8th of November, 1869, is to be considered as a citizen of the United States of America.

It appears from the inclosed documents, and from an investigation held by the communal officers of the city of Amsterdam, Holland, that the father of the said young man, who was a Netherlander by the name of Simon Alexander Menist, and was domiciled at Sneek, in the Netherlands, emigrated about the year 1854 to the city of Philadelphia, Pennsylvania, where he began business as a merchant. On arriving in the United States he took the name of Simon Alexander, dropping his true family name and adopting his middle name as such.

His father was naturalized as a citizen of the United States on October 7, 1863.

In 1866 he married Miss Vogel de Haan, and of this marriage was born, on the 8th of November, 1869, at Philadelphia, a male child, whose name was entered at the health office in that city as Alexander Alexander.

Alexander Alexander is the present Alexander Menist.

The Alexander family remained in the United States until 1878. On the 11th of December, in that year, they returned to the Netherlands, where they again took the name of Menist. Since that time Alexander Menist has continued to reside with his parents at Amsterdam.

The father, Simon Alexander Menist, has now asked that his son, Alexander Menist, be entered in the class of the year 1889 of the national militia, that is to say of the army, he (the father) declaring that his son has no longer any claim to "belong" to the United States,

since he (the son) has resided in the Netherlands, with the intention of remaining there, since December 11, 1878.

The communal officers doubt the correctness of this opinion, which is entertained by the father both with regard to himself and his minor son.

While the fact seems to be established that Alexander Menist left the United States without any intention of returning, and that he has now voluntarily offered to serve in the army of the Netherlands, it appears, on the other hand, that Alexander Menist was born in the United States, and that his father was at that time a citizen of the United States, and domiciled in that country.

Under these circumstances, and since the communal officers of Amsterdam are not acquainted with the provisions of the law of the United States of America which govern the forfeiture of citizenship in the said Republic, my Government would be very grateful to you if you would be pleased to enable the communal officers to decide the question which has arisen, and which, in their opinion, should be decided in accordance with American law.

I beg you to return to me, with your reply, the inclosures to the present communication, viz:

(1) Simon Alexander's certificate of naturalization.

(2) The certificate of the birth of Alexander Alexander.

(3) The declaration that Simon Alexander and Simon Alexander Menist are one and the same person.

Be pleased to accept, etc.,

G. DE WECKHERLIN.

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[Inclosure 1.]

*Certificate of birth of Alexander Alexander.*

REGISTRATION DEPARTMENT, HEALTH OFFICE,
*Philadelphia, Pennsylvania, March* 12, 1879.

*To all whom it may concern:*

This is to certify that the following is a correct copy of the birth of Alexander Alexander as filed in this department in accordance with the State laws: Date of birth, November 8, 1869; name of child, Alexander Alexander; sex, male; color, white; ward, fourth ward; No. and street, 628 South street; name of parents, Simon and —— Alexander; occupation of father, dealer; name of physician, Philip De Young; residence of physician, 242 North Fifth street.

For the health officer.

[SEAL.] GEO. E. CHAMBERS,
*Register.*

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[Inclosure 2.]

*Naturalization certificate of Simon Alexander.*

UNITED STATES OF AMERICA:

*Be it remembered,* That at the district court for the city and county of Philadelphia, held at Philadelphia, in the Commonwealth of Pennsylvania, in the United States of America, on the seventh day of October, in the year of our Lord one thousand eight hundred and sixty-three, Simon Alexander, a native of Holland, exhibited a petition praying to be admitted to become a citizen of the United States, and it appearing to the said court that he had declared on oath before the prothonotary of the district court, on the thirtieth day of March, A. D. 1861, that it was *bona fide* his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatsoever, and particularly to the King of Holland, of whom he was at that time a subject; and the said Simon Alexander having on his solemn oath declared and also made proof thereof agreeably to

law, to the satisfaction of the court, that he had resided one year and upwards within the State of Pennsylvania, and within the United States of America upwards of five years immediately preceding his application; and that during that time he had behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same, and having declared on his solemn oath before the said court that he would support the Constitution of the United States, and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatsoever, and particularly to the King of Holland, of whom he was before a subject. And having in all respects complied with the laws in regard to naturalization, thereupon the court admitted the said Simon Alexander to become a citizen of the United States, and ordered all the proceedings aforesaid to be recorded by the prothonotary of the said court, which was done accordingly.

In witness whereof I have hereunto affixed the seal of the said court at Philadelphia, this seventh day of October, in the year one thousand eight hundred and sixty-three (1863), and of the sovereignty and independence of the United States of America the eighty-eighth.

[SEAL.]

PHILIP S. WHITE,
*Prothonotary.*
Per F. AUGS. TREGO,
*Deputy Prothonotary.*

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[Inclosure 3.—Translation.]

*Affidavit as to the identity of Simon Alexander Menist.*

On this sixth day of June, eighteen hundred and seventy-nine, before me, Dirk Jacobus Leepel, notary at Amsterdam, in presence of the witnesses to be named hereafter, appeared:

Messrs. Barend Moses Gondsmit, merchant, and Barend Moses Zeeman, lapidary, both residing at Amsterdam, and known to me, notary;

Who, for love of truth and as a fact fully known to them, have declared and testified that Mr. Simon Alexander Menist, merchant, residing at Amsterdam, in the Daniel Stalpert straat, number 32, born at Sneek on the sixth of July, eighteen hundred and thirty-two, son of Alexander Abraham Menist, and of the wife of the same, Duefie Simons Zwitser, has resided about twenty-five years at Philadelphia and returned into the Netherlands on the eleventh of December of the last year, is one and the same person as Simon Alexander, under which denomination only of his first names the said Mr. Simon Alexander Menist has been generally known at Philadelphia, and under which denomination he has been entered as inhabitant into the registers of the population of that city.

The said appearers requesting to deliver an official certificate of the forenamed testimony given to me, notary, and to furnish them with copies of the same where such might be found necessary, to the benefit of the said Mr. Simon Alexander Menist.

Made and passed in the office of me, notary, in the year and on the day first above written, in the presence of Messrs. Hendrick Frederick Duyker and Antheunis van Vlaanderen, both brokers and both residing at Amsterdam, as witnesses.

And has the minute of these presents, after having been read over to them, been subscribed by the appearers, with the witnesses and me, notary.

B. M. GONDSMIT.
B. M. ZEEMAN.
H. F. DUYKER.
A. VAN VLAANDEREN.
D. J. LEEPEL,
*Notary.*

Registered at Amsterdam the seventh of June, eighteen hundred seventy-nine, volume 171, folio 170, square 4, one leaf, no reference. Received for duty fo. 80, additional duty fo. 30½, together one guilder ten cents and a half, f. 1.10½.

The receiver c. a. No. 1.

KNIPSCHEER.

Delivered as a true copy.

D. J. LEEPEL.
*Notary.*

Translated from the Dutch by the undersigned sworn translator.

A. R. HAPPEL.

Certified to under the seal and signature of C. H. Backer, president of the district court of Amsterdam, Netherlands.

No. 901.

*Mr. Bayard to Mr. de Weckherlin.*

DEPARTMENT OF STATE,
*Washington, April* 7, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 17th ultimo, in which you inquire whether, according to the laws in force in this country, Mr. Alexander Menist is an American citizen, he having been born in Philadelphia on the 8th of November, 1869 (his father, there resident, being then a naturalized citizen of the United States, of Dutch birth), but having been in the year 1878 taken back to the Netherlands by his father, the latter having left this country without the intention of returning hither, but of remaining permanently in the land of his origin.

The parties interested in the case as stated by you are not before this Department, and therefore no opinion is given as to them.

But the general view held by this Department is that a naturalized American citizen by abandonment of his allegiance and residence in this country and a return to the country of his birth, *animo manendi*, ceases to be a citizen of the United States; and that the minor son of a party described as aforesaid, who was born in the United States during the citizenship there of his father, partakes during his legal infancy of his father's domicile, but upon becoming *sui juris* has the right to elect his American citizenship, which will be best evidenced by an early return to this country.

This right so to elect to return to the land of his birth and assume his American citizenship could not, with the acquiescence of this Government, be impaired or interfered with.

Accept, etc.,

T. F. BAYARD.

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No. 902.

*Mr. de Weckherlin to Mr. Bayard.*

[Translation.]

LEGATION OF THE NETHERLANDS,
*Washington, May* 9, 1888. (Received May 10.)

Mr. SECRETARY OF STATE: At the instance of Messrs. Kunhardt & Co., the New York agents of the Royal Dutch West India Mail Company, I take the liberty to have recourse to your well-known kindness in relation to the tonnage dues exacted in New York on the 25th of April last from the Dutch steamer *Prins Maurits*.

This steamer is the first of a new regular line just organized by the said company, the plan of whose route you will find inclosed.

The *Prins Maurits* sailed from Amsterdam and arrived in New York after having called successively at Paramaribo, Demerara, Trinidad, Carúpano Cumaná, La Guayra, Puerto Cabello, and Port au Prince.

The New York custom-house compelled the *Prins Maurits* to pay a duty of 6 cents per ton.

Messrs. Kunhardt & Co. protest against this decision, which they declare to be in violation of the proclamation of the President of the United States of America of April 22, 1887, suspending the collection

of tonnage dues in the case of vessels arriving from ports in the Netherlands

They appeal to the text of that proclamation, which merely says that the vessel must come from a port situated in the Netherlands, and nowhere says that the voyage must be direct.

Messrs. Kunhardt & Co. further observe that the proclamation is a document which, from its very nature, does not appear to admit of a restrictive interpretation.

Finally, the interested parties desire to refer to the decisions in regard to the *Marmion*, the *San Francisco*, the *Hernan Cortes*, and the *Cella*, in deciding whose cases the Government of the United States of America clearly laid down the rule that it is the port of departure that decides concerning the collection of tonnage dues, and not the port or ports which the vessel has entered during her voyage.

For these reasons Messrs. Kunhardt & Co. think that the amount in question should in justice be refunded to them.

I have the honor to commend this application to your kind consideration, and I avail, etc.

G. DE WECKHERLIN.

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[Inclosure.]

*Plan of the route.*

Amsterdam, Paramaribo, Demerara, Trinidad, Carúpano, Cumaná, La Guayra, Porto Cabello, Curaçoa, Port au Prince (Hayti), New York, Port au Prince (Hayti), Curaçoa, Porto Cabello, La Guayra, Cumaná, Carúpano, Trinidad, Demerara, Paramaribo, Havre, Amsterdam.

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No. 903.

*Mr. de Weckherlin to Mr. Bayard.*

[Translation.]

LEGATION OF THE NETHERLANDS,
*Washington, May* 23, 1888. (Received May 23.)

Mr. SECRETARY OF STATE: At the request of the general agent at New York of the Netherlands-American Steam Navigation Company, I have the honor to apply to your accustomed kindness to obtain an order directing the restitution of the tonnage dues paid at New York in the month of February last by the Dutch steamers *Schiedam* and *Leerdam* under the following circumstances:

The steamer *P. Caland*, of the aforesaid company, which sailed directly from the Netherlands for New York on the 14th of January last, met with such serious damages while at sea that the captain put back and entered Plymouth as a port of refuge.

The company then caused the passengers of the *P. Caland* to be taken on board by the steamer *Schiedam*, which was then coming directly from the Netherlands, and caused the cargo of the *P. Caland* to be taken off by the steamer *Leerdam*, which was also coming directly from the Netherlands.

These two vessels then sailed directly from Plymouth to New York, where, although the service rendered by them at Plymouth partook to

some extent of the character of an act of salvage, a tonnage duty of 6 cents per ton was exacted from them.

I take the liberty to beg you to cause the facts in question to be examined, and, in case you find the foregoing statement to be correct, I shall be very grateful to you if you will cause this question to be settled in the way desired by the company.

Be pleased, etc.

G. DE WECKHERLIN.

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No. 904.

*Mr. Bayard to Mr. de Weckherlin.*

DEPARTMENT OF STATE,
*Washington, June* 6, 1888.

SIR: Referring to your note of the 9th ultimo, in relation to the tonnage dues collected at New York in April last from the Dutch steamer *Prins Maurits*, I now have the honor to transmit to you for your information a copy of a letter from the Secretary of the Treasury relative to the subject.

Accept, etc.,

T. F. BAYARD.

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[Inclosure 1.]

*Mr. Fairchild to Mr. Bayard.*

TREASURY DEPARTMENT,
*May* 28, 1888.

SIR: Referring to the letter of the Acting Secretary dated the 15th instant, in regard to the steamer *Prins Maurits*, I have the honor to inclose herewith a communication from the Commissioner of Navigation of this date, furnishing the information requested by your Department upon the subject of the above-named vessel.

Respectfully yours,

C. S. FAIRCHILD.

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[Inclosure 2.]

*Mr. Morton to Mr. Fairchild.*

TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
*Washington, D. C., May* 28, 1888.

SIR: I have the honor to acknowledge the receipt of the letter of the Acting Secretary of State relative to tonnage dues stated to have been collected on the 25th of April last from the master of the Dutch steamer *Prins Maurits*, which vessel appears, from a statement by the Netherlands minister, to have arrived at New York from Amsterdam after having called successively at Paramaribo, Demerara, Trinidad, Carúpano, Cumaná, La Guayra, Puerto Cabello, and Port au Prince.

In reply to the request that the Department of State be furnished information upon the subject of the above-named vessel, and of the law governing the case, I have to report that no communication in regard to the particular vessel named has been received from the customs officers. This office assumes, however, that she was entered at New York as being from some place not mentioned in any proclamation relating to the exemption of vessels from tonnage dues, and that the action of the collector of customs was in accordance with the practice obtaining in such cases under the provisions of section 11 of the act of June 19, 1886, amendatory of section 14 of the act of June 26, 1884.

These acts require the collector of customs to impose dues "at each entry" on all

vessels which shall be entered from a foreign port not specified in any proclamation suspending the dues. In the present case, if the vessel was entered, say from Paramaribo, dues accrued under the existing practice at the rate of 6 cents per ton, there being no suspension of the collection of such dues by the authority of the President on vessels entered from that port. Had she proceeded from Amsterdam and called at Port au Prince for ordinary commercial purposes, entry would have been made accordingly and dues levied at the minimum rate. On entry from Amsterdam with cargo or passengers from that port, she would have been exempt from dues under the President's proclamation, unless also entered from some other foreign port, not Dutch or German. The acts cited have never been construed as intending to put vessels trading, for instance, between Amsterdam, Brazil, and the United States, on any better footing than vessels trading between Brazil and the United States.

If the persons concerned consider themselves aggrieved, in such cases, action can be taken by them as mentioned in section 2931, Revised Statutes, whereupon the collector's decision will be fully considered and reversed if found erroneous.

It may be observed that each case must be decided upon its merits, and that in the present instance the nationality of the vessel has no bearing upon the action taken, which action would have been the same had the vessel belonged to the United States.

Respectfully, yours,

C. B. MORTON.

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## No. 905.

### *Mr. Bayard to Mr. de Weckherlin.*

DEPARTMENT OF STATE,
*Washington, June* 18, 1888.

SIR: Referring to previous correspondence, I have the honor to inform you that the Department has just received from the Commissioner of Navigation an announcement of his decision to refund the tonnage dues exacted from the Dutch steamers *Schiedam* and *Leerdam* at New York, where they arrived from Plymouth, England, with the cargo of the Dutch steamer *P. Caland*, which was compelled to put into that port in distress, and to have her cargo transhipped, while bound on a direct voyage from the Netherlands to the United States.

In the course of the decision the Commissioner says:

Had the *P. Caland* proceeded to New York, the calling of the vessel at Plymouth in distress would not have been considered by this office as causing tonnage dues to accrue, and it is not thought that the calling of the other two steamers at Plymouth, with a view to relieving the distress of a sister vessel, and of receiving by transhipment merely her cargo and passengers under the exceptional circumstances of the present case, necessitated the collection of the tax.

Accept, etc.,

T. F. BAYARD.

# NICARAGUA.

## CORRESPONDENCE WITH THE LEGATION OF NICARAGUA AT WASHINGTON.

### No. 906.

*Mr. Guzman to Mr. Bayard.*

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,
*Washington, D. C., March* 25, 1888. (Received March 26.)

SIR: Through the honored mediation of your excellency I desire to express to His Excellency the President of the United States the thanks of my Government for his having given a speedy decision in the question which had been pending between Nicaragua and Costa Rica.

My Government will see in the arbitral decision a fresh proof of the friendly sentiments which animate His Excellency the President towards the Republics of Central America.

I repeat to your excellency, etc.,

H. GUZMAN.

# PARAGUAY.

## No. 907.

*Mr. Bacon to Mr. Bayard.*

[Extract.]

No. 193.] LEGATION OF THE UNITED STATES,
*Montevideo, October* 19, 1887. (Rec ived Decemb r 5.)

SIR: I had the honor to inclose with my No. 176, dated August 19 last, the original protocol *in re* "The United States and Paraguayan Navigation Company," entered into by his excellency Dr. Don Benjamin Aceval, minister for foreign affairs for Paraguay, and myself, as chargé d'affaires, whereby Paraguay was to pay $90,000 in gold.

In my dispatch I stated that the protocol had been submitted to the Paraguayan Congress for approval, and that I would advise the Department of the action of that body as soon as received. Mr. Hopkins, the agent of the said company, has just returned from Asuncion, and informs me that the protocol passed the senate without opposition and went to the house (chamber of deputies), where it met with the fiercest opposition. This occasioned delay, and gave the opponents of the Government time to marshal their forces and prepare their ammunition, which was most admirably done. The result was the refusal by the chamber of deputies (house) to approve the protocol by only one vote.

While writing I have received two dispatches from Asuncion, one of them (copies in Spanish and English sent herewith, and marked, respectively, inclosures Nos. 2 and 3) advising me of the rejection by the chamber of deputies of the protocol, and the other of the resignation of Mr. Aceval.

You will perceive that the minister for foreign affairs *ad interim*, in his note announcing the fact, deplores the failure of the chamber to approve the protocol.

The present status of the claim is as follows: The protocol rejected by one vote in the house, having passed the senate without opposition. This leaves the whole matter unsettled, the award having been opened. This was all that the Department asked in No. 12, dated December 26, 1885.

I regret exceedingly the defeat of this protocol, which I had succeeded in obtaining with so much difficulty and labor.

I console myself, however, to a certain extent, by the fact that even according to the extracts from the opposition journals my official connection therewith has been unusually successful. With the action of the chambers, of course, I had nothing to do.

It is a matter of consolation also that, notwithstanding the defeat of the protocol by the Paraguayan Congress, the award stands open, and that by reason of the acknowledgment of the claim and the agreement in the protocol to pay $90,000 in gold the present administration and

the senate are committed to the justice thereof, as is also the preceding administration, inasmuch as that administration agreed to open the award.

Mr. Decoud, who was then the minister for foreign affairs, is admitted to be far the ablest of the Paraguayans. Indeed, he is the ablest and best-informed man that I have met in South America. He was educated in Buenos Ayres and Europe; speaks English, French, German, and Spanish; has the best and largest library in the Plata Valley; among other books quite a number American, among them Kent, Story, Pomeroy, Cooley, etc., and has done more for Paraguay than all others together.

The claim, I suppose, stands ready for re arbitration.

As to the persecution and despoliation of the company and the justice of their claim, as also the fact that the commission exceeded their powers, I have little or no doubt. In fact, my dispatches, both to the State Department, Nos. 55, 72, 108, 173, especially No. 108, dated October 7, 1886, and my notes to the ministers of foreign affairs for Paraguay, the principal of which are inclosed with my said No. 108, were sufficient to convince, and did convince them of the fact, as appears by the consent to open the award.

The Paraguayan records, as stated by the minister for foreign affairs, Mr. Decoud, having been destroyed, the only evidence, historical and otherwise, is to be found in the messages of Presidents Buchanan and Lincoln, the opinions and instructions of Secretaries of State Marcy and Cass, the proceedings of Congress, and the histories, dispatches, and reports of Messrs. Washburn and Page, all of which are referred to in Wharton's International Law Digest, section 321, page 113, volume 3, and all of which, save the version given by Calvo, page 115, *ibid.*, concur in denouncing the tyrannical conduct of Lopez, the President of Paraguay, and the ruin and despoliation of the company.

The conclusion of Calvo as to the character of Mr. Hopkins and the conduct of the United States Government, to wit, in substance as stated by Wharton, page 115, volume 3, "that the precipitate action of the Government of the United States was a wrong, not merely to Paraguay, but to the United States, which, to support an unfounded claim, got up an expedition, whose mere preparation cost over seven millions of dollars," is founded upon a total misconception of the facts, as will appear from his own statement thereof, same page, where he falls (as I propose to show further on) into at least seven or eight fundamental mistakes.

Having set forth the status of the claim I might close, leaving to the Department the trouble to refer to my various dispatches and to the proceedings that have been had in the premises for the last thirty years, in order to have a correct understanding of the whole matter.

This I deem neither politic nor proper to do. I will therefore, at the risk of being both prosy and prolix, endeavor to state the case fully, so that the Department may be saved the trouble of referring, *seriatim*, to the many papers connected therewith, and I shall do so as briefly and succinctly as possible. It is as follows:

In 1845 Mr. Edward A. Hopkins was sent by the United States to congratulate Paraguay upon throwing off the Spanish allegiance and to encourage her in adopting a republican form of government. The elder Lopez was then President of the Republic.

He was both able and shrewd, and soon comprehended the advantages that would accrue to Paraguay from a closer connection with the United States. He was anxious to encourage immigration, and held out such inducements as eventuated in the forming of a company in

Rhode Island for the purpose of improving the agricultural condition of Paraguay. This company, chartered as "The United States and Paraguay Navigation Company," bought a steamer, filled it with agricultural, mechanical, and manufacturing implements, and with a number of first-class immigrants, started for Asuncion. The steamer, *El Paraguayo*, as it was called, was wrecked and lost. The company, however, fitted out another in a similar manner, which reached Asuncion in 1854, bought a tract of land called "San Antonia," near Asuncion, built houses, erected buildings, tobacco factories, etc., at great expense, all of which was approved and encouraged by President Lopez. Meantime Mr. Hopkins had become consul to Paraguay.

The company prospered. Everything was flourishing, and it was about to realize its most sanguine expectations, when a sudden change was observed in President Lopez.

Mr. Washburn, afterwards United States minister to Paraguay, in his history (vol. 1, History Paraguay, 362), says:

> Lopez saw, however, that the company were working rather in their own interest than in his, and soon became uneasy at the presence of such a company. * * * It was soon evident to all that Lopez had changed his mind in regard to the whole project, and that the company were regarded by him with fear and aversion.

This aversion was soon increased by a difficulty between Hopkins, personal or as consul, and Lopez, and was extended to the company by the latter, and ended in his (Lopez) "commencing a series of annoyances, outrages that rendered the property of the company valueless, and left the members of it exposed and helpless. * * * The land which had been bought by the company, to the purchase of which no objection had been made at the time of the bargain, was declared to have been illegally sold, and that there were claims upon it by others than the former owner, so that the deed of purchase was null and void. This pretense of illegality was clearly trumped up for no other object than an excuse for ejecting the company from their rightful possession. But the company had no means of redress. Lopez had determined to drive them from the country and break up the enterprise, and as he was responsible to no power in the world but his own arbitrary will it was hopeless at this stage for the company to contend with him. His action toward them, however, was somewhat embarrassed from the fact that an American man of-war was in the river." (Washburn, History Paraguay, 363.)

This steamer, the *Water Witch*, was in command of Lieutenant Page, and had been sent out by the United States to explore the Plata River.

Hearing of the hostility of President Lopez towards Hopkins and the company, he returned from an extended voyage up the river to Asuncion. Upon reaching that city Lieutenant Page, in his report, says:

> The consular exequatur had been revoked, and the wrath of the chief magistrate extended to the members of the American company, of which Hopkins was the agent. They had been permitted to occupy the cuartel of San Antonio; had improved the grounds, purchased some adjoining lands, erected a saw-mill, and established a cigar factory. They were now forced to give up the cuartel; the controversy waxed hotter and hotter, decrees or bandos intended to embarrass their operations were issued, and at last the cigar factory was closed, thereby virtually closing the business of the company in Paraguay.

Under the circumstances the company were obliged to leave the country, but even in this they were thwarted by President Lopez to such an extent that Lieutenant Page was forced to intervene, and,

after several interviews, to advise him that he should protect the said company. Lieutenant Page says:

Again I called on the President. It was my last interview with his excellency. I reminded him of the assurance he had given me as to the personal treatment of the members of the company and stated the new complaint, informing him at the same time, in decided but courteous language, that my duty obliged me to watch over the rights of American citizens wherever I should meet them abroad.

Lieutenant Page then proceeds to state the difficulties he encountered in getting the consent of Lopez for the departure of the company and the shipping of their goods and chattels. It was finally arranged that the captain of the port should procure a vessel for the purpose, but having failed to do so, and the company being in great fear, Lieutenant Page addressed a note on their behalf to the minister for foreign affairs, alluding to the President's promises, and advising what would be done if the company "were not allowed to depart by the usual mode of conveyance."

To this note Lieutenant Page received an answer, returning his notes, and informing him that the President did not read English, and that he must "translate it into Spanish, and they would receive proper attention," to which Lieutenant Page replied as follows:

I replied to Mr. Falcon, stating that the contemptuous treatment of my official communication, addressed in courteous language, was a thing unprecedented in this age of civilization; that it deprived me of the means of arriving at the intentions of the Government relative to the departure of the Americans, and forced upon me the inference that my request had been refused, thus making it an imperative duty to remove them in the *Water Witch*. At the same time I informed the captain of the port that I should receive them and their effects on board and leave at a certain hour.

This was done, and, as Washburne says (History Paraguay, vol. 1, p. 371)—

In this way the Rhode Island Company, with their obnoxious agent, were enabled to escape from the power of Lopez, their enterprise having been broken up and their property seized and rendered valueless or virtually confiscated.

Among other reasons for refusing to comply with the promise to furnish transportation for the company, it was alleged that Hopkins, the agent, had refused to "surrender the papers, deeds, etc., which secured to the company certain lands purchased and paid for" (Page's Report). Besides that, the company had, among other things, "about 800 arrobas of superior tobacco," equivalent to about 20,000 pounds, which the President, it is presumed, did not desire to see shipped from Asuncion.

As Lieutenant Page was descending the river with the company, he met Mr. Buckley, a messenger of the United States, bearing the treaty which had been previously made between the United States and Paraguay for the purpose of correcting a mistake inadvertently made therein by terming the United States the "United States of North America." Lieutenant Page was authorized to present the communication of Mr. Marcy, then Secretary of State; and, upon doing so, his note was returned with an insolent and insulting reply, complaining that it was not accompanied by a translation.

On returning from Buenos Ayres, where the *Water Witch* had landed the unfortunate company, Lieutenant Page dispatched her to explore the Parana, over which President Lopez had no control. When "about 2 leagues from the extreme southern point of Paraguay" and "within close shot" of Fort Itapiric, a Paraguayan fort, the *Water Witch* was fired upon, the wheel cut away, and "the helmsman killed," and the United States exploration was defeated.

These two incidents, though apparently irrelative to the main question, are alluded to to show the *animus* of Lopez not only to the company, but to the United States and Captain Page.

The United States and Paraguayan Navigation Company, having been ruined and ejected, as above stated, appealed to their Government for redress.

Secretary Marcy, having investigated the matter, officially declared that they were entitled to indemnity. He stated, among other things, that the "authorities of Paraguay not only broke up the company, but seized its property. The conduct of Paraguay appears to have been not only unjust and oppressive, but to have produced the loss of a large amount of property." A commissioner (Mr. Fitzpatrick) was sent to Asuncion to present a claim for the damages. He "was repelled with rudeness by Lopez" (Washburn's History Paraguay, p. 376). Afterwards President Buchanan, in a message to Congress, stated that "citizens of the United States, who were established in business in Paraguay, have had their property seized and taken from them and have been otherwise treated by the authorities in an insulting and arbitrary manner, which requires redress." At the same time he recommended that Congress furnish means for enforcing the claim. (See message for 1857.)

Congress accordingly adopted the recommendation, and an "expedition, consisting of 23 vessels, was fitted out and sent to the Plata, with instructions to obtain redress, forcibly if necessary." The Hon. James B. Bowlin was sent with the fleet, as commissioner, to treat with Lopez as to the claim. His instructions were explicit. He was to endeavor to make a pacific arrangement. The company claimed $1,000,000, but the commissioner was instructed by Secretary of State Cass to accept $500,000 as a minimum. If Lopez refused to accede to this the commissioner was authorized to consent to an arbitration, provided that Lopez would admit the "liability of his Government" and agree to "pay whatever a joint commission might declare to have been the losses sustained by the company through his acts." Commissioner Bowlin was also charged with the negotiation of the treaty with Paraguay, and a demand for damages for the killing of the helmsman on board of the *Water Witch*. After considerable delay it was agreed that it should be left to a mixed commission of two persons—one to be appointed by the President of the United States and the other by President Lopez. For this purpose a convention was entered into, by which it was agreed that the Commissioners should meet at Washington to determine the amount due the company. The commissioners appointed under this special convention, to wit: Hon. Cave Johnson, appointed by President Buchanan and Don José Berges, by President Lopez, met in Washington for the purpose expressed in the terms of the said convention; that is, to "investigate, determine, and adjust the amount of the claims of the said company" (Treaties of the United States, page 654), and though it was expressly stipulated in the said convention that they were to decide only the "amount" due to the said company, the Paraguayan commissioner and his attorneys insisted upon going behind that and upon opening the whole question as to the original liability of the Lopez Government, which was finally done, and the commissioners thereupon pronounced an award, on the 13th August, 1860, deciding that Paraguay was not responsible for any pecuniary loss or indemnity. President Buchanan was greatly chagrined at this decision. It was indeed a serious matter. The award, if just, showed that the United States had incurred an expense of millions upon insufficient cause and in a precipitate manner.

The President, however, well knowing that the commissioners, in pronouncing such an award, had exceeded their jurisdiction, sent a message to Congress, stating in effect that they had not decided the question submitted to them by the express terms of the convention—the amount due the company—and that the United States could not with dignity submit to such an award, and that therefore, in his opinion, the whole matter was still open and undecided.

Thus stood the matter at the inauguration of President Lincoln. The new Administration, regarding the award also as null and void for want of jurisdiction on the part of the commissioners, determined to send a representative to Paraguay with instructions to advise President Lopez that the award was not binding upon the United States, and the whole matter therefore still unsettled and open for further negotiation. Mr. Charles A. Washburn was selected for this purpose.

Mr. Washburn in his dispatches Nos. 1, 2, 4, 5, and 7 to Mr. Seward states substantially that he had advised President Lopez fully of the determination of the United States not to abide by the award; that at first President Lopez stated that the whole matter, "all the proceedings, all the forms will have to be gone over again," but finally through the minister for foreign affairs informed him, Mr. Washburn, that he would have nothing more to do with it.

Mr. Washburn adds that, in his opinion, President Lopez made this sudden change because he thought that if the United States has a war with England on its hands in addition to the great rebellion it will have enough to do for a while without troubling Paraguay. In other dispatches Mr. Washburn alludes to the rudeness and incivility of President Lopez (père et fils) towards him.

The United States, having thus advised Paraguay of the intention to regard the award as null and void, and having enough to do with the domestic troubles arising out of the late war and the reconstruction of the Union, allowed the matter to rest.

In June, 1870, the company directed the attention of the United States to the status of the claim, and on July 22 the then Secretary of State advised the company that it would be hopeless to expect the Paraguayan Government to be willing to entertain anew the claims at that time. In fact the allied forces were then in possession of Paraguay and there was no Government.

In December, 1885, the claim, together with a petition for redress by the company, was presented to the Hon. Thomas F. Bayard, Secretary of State, and on the 26th December, 1885, Mr. Bayard, in a dispatch of that date, addressed to John E. Bacon, chargé d'affaires of the United States to Paraguay and Uruguay, instructed him, among other things, "to ask the Government of Paraguay to open the award, giving as a reason for the desired action the grave doubt felt by this Government as to the regularity and validity of the arbitration."

Mr. Bacon, upon receiving this dispatch, addressed a note to his excellency Don José S. Decoud, minister for foreign affairs, advising him of his instructions.

His excellency, after some delay, intimated a desire to discuss the matter verbally, and for that purpose Mr. Bacon went to Asuncion in May, 1886, and while there had several interviews with his excellency, in which the whole matter was freely and frankly, and, as Mr. Bacon then thought, favorably discussed. (See Dispatch No. 72, Mr. Bacon to Mr. Bayard, of May 20, 1886.)

Shortly after his return to Montevideo Mr. Bacon received a note from his excellency, stating that his Government declined to accede to

Mr. Bayard's request to open the award, and that therefore it was unnecessary to reply to the grounds alleged by Mr. Bacon for the invalidity of the award.

This declaration was made upon the ground that the United States had never notified Paraguay of any objection to the award or any determination not to abide it.

In reply to this note Mr. Bacon showed conclusively, from Mr. Washburn's dispatches, that such notice had been promptly given, and that he, Washburn, had, as special commissioner for that purpose, so advised President Lopez on several occasions. Mr. Bacon, in the same dispatch, insisted that, as the only reason for the refusal upon the part of the Paraguayan Government had thus been unquestionably removed, his excellency should advise his Government to open the award. In reply his excellency stated substantially that the Paraguayan records having been destroyed during the war with the allies, there was nothing to show the facts as set forth in Mr. Bacon's dispatch, and, after quite an explanation, consented to open the award, and asked that Mr. Bacon advise him of the grounds for setting aside the same.

In reply and in conformity to this request, Mr. Bacon, in a dispatch dated the 3d day of October, 1886, set forth these grounds fully and at length.

Meantime Mr. Decond went out of office, and no answer having been made to the last-named dispatch, Mr. Bacon directed thereto the attention of his excellency Dr. Don Benjamin Aceval, the newly appointed minister of foreign affairs. His excellency did not reply in writing, but signified a desire to discuss the matter in person. Accordingly Mr. Bacon went to Asuncion in August last, and, after several full and frank discussions with his excellency, he stated to Mr. Hopkins, the agent of the company, that inasmuch as the award had been opened, he thought it useless to attempt to reply to the grounds for setting it aside as set forth in Mr. Bacon's dispatch. It was shortly thereafter agreed that the Government of Paraguay should pay to the company $90,000 in gold, and a protocol with that view was entered into and signed by his excellency and Mr. Bacon on the 12th August, 1887. The defeat of that protocol in the Paraguayan Congress has been fully stated in the first part of this dispatch, and the present status of the claim placed before the Department.

Calvo (Droit International, 3d ed., vol. 1, 416) is the only authority contradictory of Page and Washburn, and as he was neither present nor a party to the proceedings of Lopez, as they were, his statement should have little weight. As he is an Argentine, however, and his version of the matter has taken current hold of the "Plate Valley," and been quoted to defeat the protocol, I propose to show that he misconceived the facts of the case, as follows:

Indeed from the foregoing plain and unvarnished statement of the facts, as they occurred, it is difficult to understand the conclusion of Calvo above stated, to wit:

> That the precipitate action of the United States was a wrong, not merely to Paraguay, but to the United States, which to support an unfounded claim got up an expedition whose mere preparation cost over $7,000,000.

Messrs. Washburn and Page, one a civilian and diplomatic agent and the other a soldier and gentleman of the United States (both uninterested parties), state positively in their reports and histories, in substance, that President Lopez, having had a personal difficulty with Mr. Hopkins of entirely a private nature, and having no connection with the company, conceived a great hatred to him, and extended it to

the company, to such an extent as to close their factory and ruin their enterprise; that he would not allow them to depart in the accustomed way, and that Lieutenant Page was forced to desist from his exploration and take the members of the company on board of the *Water Witch;* that shortly thereafter, the *Water Witch* being engaged in the prosecution of her exploring expedition, was shot into when not in Paraguayan waters by Paraguayan authorities, her helmsman killed, etc., and that Paraguay then also refused to amend the treaty between the two Republics in a simple matter of form.

His excellency Mr. Decoud, in his dispatch to Mr. Bacon, above quoted from, says that all of the Paraguayan records had been destroyed. If so, Messrs. Washburn and Page and the proceedings of the United States Congress, including the messages of President Buchanan, are the only true sources from which the facts can be ascertained, and these, as before stated, disclose them as set forth in this dispatch. Can it be maintained that the United States, after sending two commissioners, Messrs. Buckley and Fitzpatrick, to Asuncion to treat with President Lopez, and his incivility to them, acted precipitately in sending a third commissioner with an adequate force to make him respected, and that claims for the shooting of an American sailor by Paraguayan authorities and for the ejectment of a company of American citizens and the virtual confiscation of their property were or are unfounded claims, as Mr. Calvo concludes? Surely there must have been some misconception in the mind of the author to force him to come to a conclusion so illogical and irrational.

Mr. Calvo, indeed, seems to have labored under misconceptions in his entire statement. He states that Mr. Hopkins purchased a ship in New York, which he called *The Assomption*, insured it for $50,000, etc., whereas, it is well known and historical (Washburn, History Paraguay, 359) that a company was formed and chartered in Rhode Island, called "The United States and Paraguayan Navigation Company," composed of men of substantial wealth and character. That they and not Hopkins bought the steamer and cargo, and that her name was *El Paraguayo*, and not *Assomption*. He also states that Hopkins fell into difficulties in Paraguay as consul and speculator, when the facts show that the difficulty referred to between Lopez and Hopkins was of a nature entirely personal, arising out of an insult offered to the brother of Hopkins and a lady, the wife of a French consul, whom he was escorting, by a Paraguayan, which insult Hopkins recounted to Lopez, etc. (Washburn, History Paraguay, 363). He also states that by the treaty signed February 4, 1859, the claims of Mr. Hopkins were referred to arbitrators, when in point of fact that treaty does not allude to Hopkins, but is simply "a treaty of friendship, commerce, and navigation." And if he means to refer to the "special convention" of the same date, the mistake is still more glaring, for that instrument itself expressly states that it was to settle the claims of "The United States and Paraguayan Navigation Company," and not that of Hopkins, nor does the name of Hopkins appear throughout the whole paper. (United States Treaties and Conventions, p. 653.)

Indeed, the result shows conclusively that the claims were not unfounded, inasmuch as Lopez himself apologized and paid $10,000 for the killing of the helmsman of the *Water Witch*, and Paraguay over thirty-two years afterwards has agreed to recognize and settle the claim of "The United States and Paraguayan Navigation Company." That is, two of her administrations agreed to the protocol to pay $90,000.

I have paid more attention to the version of Calvo than it may de-

serve. I have been induced to do so, however, because it has influenced public opinion here and is manifestly wrong, and was used to defeat the protocol.

Lieutenant Page's report must be true, as he was an eye-witness of the despotic acts of President Lopez towards the company, and, as he states, was forced to take them on the *Water Witch* for protection.

I have, etc.,

JOHN E. BACON.

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[Inclosure in No. 193 -Translation.]

*Mr. Cañate to Mr. Bacon.*

REPUBLIC OF PARAGUAY, OFFICE OF FOREIGN RELATIONS,
*Asuncion, October* 14, 1887.

Mr. CHARGÉ D'AFFAIRES: I comply with a duty in advising you that the Chamber of Deputies have not approved the protocol, in regard to the United States and Paraguayan Navigation Company, signed by your excellency and my honorable predecessor in the charge of the office of foreign relations, dated August 12 last, by reason whereof that arrangement remains ineffectual.

Deploring that the solution which it gave to that claim has not been approved, it pleases me to assure, etc.

AUGUSTIN CANATE.

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No. 908.

*Mr. Bayard to Mr. Bacon.*

[Extract.]

No. 85 ] DEPARTMENT OF STATE,
*Washington, March* 2, 1888.

SIR: Your numbers 193 of October 19, 1887, 195 of October 31, 199 of November 21, 201 of December 1, and 203 of December 15, all relating to the claim of Edward A. Hopkins, agent of the United States and Paraguayan Navigation Company, against the Government of Paraguay, have been received.

Your full and careful statement of the history of the case and your interesting account of the negotiations which led to the late settlement with the Government of Paraguay, show that you are so well possessed of all the salient features of the case as to render any detailed instructions unnecessary.

With respect to a renewal of the demand for a settlement of the Hopkins claim, your views are approved, and you are directed to present it again, and in such time and manner as your judgment and knowledge of local affairs may suggest as the most expedient.

It is, however, proper to be borne in mind that the lapse of time since the protocol of August last was concluded renders it only just that Paraguay should add to the $90,000 then agreed to be paid an additional amount for interest, besides so much as may be necessary to cover the expenses incurred by this Government and the claimant in prosecuting this demand.

I am, etc.,

T. F. BAYARD.

No. 909.

*Mr. Bacon to Mr. Bayard.*

[Extract.]

No. 225.] LEGATION OF THE UNITED STATES,
*Asuncion, May* 28, 1888. (Received July 23.)

SIR: I have been in this city over a month and have at length succeeded in getting his excellency, José Segundo Decoud, minister for foreign affairs, to enter into a protocol for the settlement of the Hopkins claim.

He was minister at the time the award was opened, and was also a member of the Senate when the former protocol was rejected and voted for it. He was, therefore, committed to it, and so expressed himself in our first interview, and agreed to enter into another, appointing a day for that purpose.

To my astonishment he advised me, a few days thereafter, that there was so much division and opposition as to the claim that he had resigned. I asked him to withdraw his resignation, as I regarded his services as almost necessary to Paraguay, at the moment, and that there was no sufficient reason for resigning in advance; that he was fully and openly committed to the claim, and it would be more consistent to enter into a protocol, have it submitted to Congress, and, if rejected, that would be the time to contemplate a resignation; but that, in a Republic, and especially in the United States, a resignation, under such circumstances, would not be expected.

Meantime, the President requested him to withdraw the resignation. He finally did so, and promised me to assemble the cabinet again for further consultation.

After the lapse of a week or so he said to me that the Government had entered into such contracts as would embarrass it in making the payments, as agreed in the former protocol, and proposed to pay only $10,000 cash, and the balance in four equal installments at six months each, extending through two years. I would not agree to this, and in fact to any alteration of the former protocol.

Having ascertained, however, that the Congress would most certainly reject the conditions stated therein, I proposed to accept $15,000 cash and the balance in three equal installments of $25,000 at six, twelve, and eighteen months, which was no great alteration, but enough to furnish grounds for Cabinet and Congressional approval. This proposition was finally acceded to, and a protocol (a copy of which is hereto attached and marked "Inclosure No. 1,") signed in duplicate on the 21st instant. It was sent to the Senate on the 26th, and on yesterday, the 29th, that body asked from the President the correspondence between Mr. Decoud and myself.

Meantime the press is savage, dealing in abuse of Hopkins and the claim in general, and resorting to all manner of editorial shifts. Among others, begging the Congress to read a letter just received by one "Benites," from Washington, from a lawyer retained by Paraguay, to the effect that the matter had been settled and Hopkins had no claim.

The Independiente went so far as to say that I had threatened Paraguay with a fleet—*una escuadra Norte Americana*—to which I sent an immediate and emphatic denial, and in reply the editor stated unblushingly that though I had not so said, still fleets were generally brought by powerful nations to coerce weak ones, and therefore it had

a right to say what it had said. Of course I do not notice the newspaper articles in general, but to an assertion so personal and offensive and one evidently intended and calculated to influence Congress, I deemed an instant denial imperative.

The constant recurrence of festivals in these countries tends greatly to retard business. In little over a month since my arrival here there have been six "fiestas," two "pamperos," and one public (state) funeral, which, together with five Sundays, aggregate fourteen days, or rather *dies non*.

I will advise the Department of future developments.

I have, etc.,

JOHN E. BACON.

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[Inclosure in No. 225.]

*Protocol.*

Met in the office of the ministry for foreign affairs, Mr. John E. Bacon, chargé d'affaires of the United States of America, and his excellency José Segundo Decoud, minister for foreign affairs of the Republic of Paraguay, agreed, mutually, to terminate the old claim of the "United States and Paraguay Navigation Company," in order to strengthen the bond of friendship, which both nations exert themselves to preserve and cultivate for their common welfare. And taking into account that this claim has been lately the subject of an extended correspondence, as also of several interviews and verbal discussions between the minister for foreign affairs of Paraguay and the chargé d'affaires of the United States of America, have agreed that, as a definite settlement, the Government of Paraguay shall deliver to the American legation the sum of $90,000 in gold, of legal currency in the Republic, upon the following terms:

(1) Fifteen thousand dollars, in gold cash, to be paid in the present month of May.
(2) Twenty-five thousand dollars, in gold, six months after date.
(3) Twenty-five thousand dollars, in gold, twelve months after date.
(4) Twenty-five thousand dollars, in gold, eighteen months after date.

All of these sums to be paid without interest.

The chargé d'affaires, Mr. John E. Bacon, manifests by this act, that, in the name of his Government, he accepts the above expressed sum, upon the terms stipulated, in full payment and satisfaction of all claim and demand whatsoever, on the part of the above-mentioned United States and Paraguayan Navigation Company.

In testimony of all of which they determined to set forth this definite arrangement, by the present protocol, signed in duplicate, one for each one of the parties, in both languages, Spanish and English.

Done at Asuncion, Paraguay, the 21st day of May, 1888.

JOHN E. BACON.
JOSÉ S. DECOUD.

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## No. 910.

### *Mr. Bayard to Mr. Bacon.*

No. 97.] DEPARTMENT OF STATE,
*Washington, July* 25, 1888.

SIR: Your No. 225, of May 28 last, reporting that you had signed a protocol with the Paraguayan minister of foreign affairs, settling the claim of the United States and Paraguayan Navigation Company, has been received and your action is commended.

As regards your course in denying publicly through the press the newspaper story that you had threatened Paraguay with a North American fleet, I have to say that while the Department is generally averse to its officers noticing publicly newspaper stories, the circumstances in this case seem exceptional, and your action is approved.

I am, etc.,

T. F. BAYARD.

No. 911.

*Mr. Bacon to Mr. Bayard.*

[Extract.]

No. 257.] LEGATION OF THE UNITED STATES,
*Montevideo, October* 17, 1888. (Received November 28.)

SIR: During the past year there have been several ineffectual attempts to settle the question of the "Chaco limits" between Paraguay and Bolivia.

Diplomatic efforts in this regard having failed, the parties have come to an open rupture at a place called Puerto Pacheco, on the river Paraguay, near the Bolivian frontier.

So far as I can ascertain, the facts leading to this conflict (which will afterwards be more particularly described) are as follows: About four years ago a Bolivian citizen, Suarez Arana, having first obtained permission from the Paraguayan Government, founded a colony, or "agricultural center," at or near the point above indicated, which he named Puerto Pacheco, and from which he proposed to open a highway into Bolivia and ultimately induce the construction of a railway connecting the two countries.

A short time thereafter Bolivia began to send military pickets to the said point and to exercise certain acts of dominion and possession over the same.

The Paraguayan Government resisted these acts, and it was supposed that the difficulties arising from the dispute had been settled by what is termed here the "Aceval-Tamayo treaty" between the two countries. This treaty, however, it seems, was ultimately rejected by the Bolivian Congress, and thereupon the Government of Paraguay, in order to be ready for an emergency, sent a small garrison under the command of Sergeant-Major Gimenez to Fuerte Olimpo, the most advanced northern position of the Chaco, to watch, report, etc., as to the acts of the Bolivian Government at Puerto Pacheco.

The Bolivian minister at Asuncion demanded an explanation of these movements, which was not, when given, satisfactory.

Recently a crime having been committed in Puerto Pacheco, the Paraguayan Government directed the commander at Fuerte Olimpo to investigate the matter. Gimenez, the said commander, having proceeded with this view to Puerto Pacheco accompanied by a small guard, one Don Enrique Moscoso, called the *administrador de la colonia*, familiarly called the governor, demanded a satisfactory explanation of the Paraguayan military advance.

Gimenez replied that the country, including the said point, Puerto Pacheco, was Paraguayan territory and that he would not recognize any other than Paraguayan authority over the same. The Bolivian administrator insisted that the territory was Bolivian and that he had been placed in command thereof by his Government.

Thereupon the Paraguayan commander ordered the taking down from the Bolivian administration quarters of the Bolivian shield, which being resisted, the said administrator and his guard were taken prisoners and carried to Asuncion.

The Bolivian minister at that city demanded the immediate release of the prisoners, which was ultimately accorded, save that of the alleged criminal, who was retained for trial.

This conflict and arrest created great excitement along the Para-

guayan River, especially in and about Malto Grosso and Corumba, while at Puerto Pacheco there reigned the greatest indignation on the part of the Bolivians and their allies, the Chamacos Indians, more than a thousand of whom (the latter) were reported to have been seen near the river ready for battle.

Notwithstanding all of this, the Paraguayan journals say that there will be no war, as the Paraguayan rights to the territory in question are so apparent and incontestable that Bolivia will be forced to yield all pretensions thereto.

Meantime Bolivia is in the midst of a revolution and nothing definite can be heard as to the intentions of that Government in the premises.

This Chaco or Gran Chaco, as it is called, is an immense territory lying to the west and northwest of the rivers La Plata, Paraguay, etc., and has been, until within the last ten or twenty years, regarded as comparatively worthless, owing to its supposed impenetrable swamps, dense morasses, and uninhabitable territory. The recent tide of immigration, however, to the Plata Valley, gave rise to surveys of portions thereof and disclosed astounding developments of its fertility, salubrity, and other desirable qualities.

These qualities, as gradually developed, have given rise to great contentions as to proprietorship thereof by the neighboring States, especially those of the Argentine Republic, Paraguay, Chili, and Bolivia.

The limits, so far as the Argentine Republic and Paraguay were concerned, were left to arbitration (as is known) to President Hayes, who decided in favor of Paraguay. This decision has been of far greater importance, in every way (especially financially), than was anticipated. Indeed, there has poured into the Paraguayan treasury, from the sales of lands accorded to the Government by said arbitration, a large amount of money, and it has been greatly instrumental in the rapid improvement, financially and otherwise, of the Republic.

I have been promised by a reliable authority the Bolivian version of the matter, and, if furnished, will advise the Department thereof.

I am, etc.,

JOHN E. BACON.

# PERSIA.

## No. 912.

*Mr. Pratt to Mr. Bayard.*

[Extract.]

No. 170.] LEGATION OF THE UNITED STATES,
*Teheran, January* 10, 1888. (Received February 23.)

SIR: In my last dispatch, No. 169, Diplomatic Series, of the 9th instant, I had the honor to announce to you the appointment of his excellency Emin é Soultan to the post of minister of finance, of the interior, and of the court, and to mention that at a special interview he had expressed to me, in even stronger terms than the moukhber ed-daouleh (minister of mines and telegraphs), the desire to see the establishment here of American commercial and industrial enterprises.

In order that you may form your own opinion as to the importance of the interview in question, I beg now to report that on the occasion referred to, his excellency the Emin é Soultan began by stating that Persia, with her immense natural resources, had neither the requisite means nor the scientific ability necessary for effecting their development, and then, after explaining how those whom she had called from Europe to aid in the accomplishment of the work had merely sought their own advantage without doing anything in return either for the benefit of the country or the people, he proceeded to compliment the Government of the United States and the nation on having so nobly taken the lead in the march of civilization, and closed by saying that the Shah and his Government now looked to my friendly efforts and to the sincere desire that they believed I entertained for the advancement of Persia, to initiate a move which would result in bringing about more intimate commercial relations between the two countries and open the way to Persia's industrial regeneration through American agency.

I have, etc.,

E. SPENCER PRATT.

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## No. 913.

*Mr. Pratt to Mr. Bayard.*

No. 185.] LEGATION OF THE UNITED STATES,
*Teheran, February* 6, 1888. (Received March 12.)

SIR: On the 3d instant, in my dispatch No. 184, diplomatic series, transmitted by English foreign office courier, I had the honor to inclose you at the request of the Shah's minister, his excellency the Emin é Soultan, a specimen of native gold-bearing quartz, upon the value of which His Majesty desired to obtain the opinion of United States Government experts.

His excellency the Emin é Soultan, minister of finance, of the interior and of the court, has now requested me, at the Shah's instance, to ask if you could not recommend to this Government (or advise it how to proceed to secure the services of) two first-class American mining engineers and geologists of practical experience, with two competent assistants each, for the purpose of making explorations and opening mines throughout the mineral region of the Empire.

The Shah's Government would also like to know if the Government of the United States could inform it as to the salaries it would be expected to pay such employés, and also if it would be possible to engage in the said capacity any in the American Government's employ whose services our Government could conveniently dispense with.

I am, etc.,

E. SPENCER PRATT.

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No. 914.

*Mr. Pratt to Mr. Bayard.*

No. 237.] LEGATION OF THE UNITED STATES,
*Teheran, May* 27, 1888. (Received July 7.)

SIR: Referring to my dispatch No. 236, diplomatic series, of the 23d instant, I have the honor to report that I have received from the minister for foreign affairs an official copy of the Imperial firman, issued by his majesty the Shah, guarantying the protection of life and property to his subjects throughout the Empire, a translation of which document, with that of the note of the foreign office accompanying it,* I herewith respectfully submit for your consideration with the request, since such the minister has given me to understand is the Shah's special desire in the premises, that the Department cause the said decree to be published throughout the United States.

I am, etc.,

E. SPENCER PRATT.

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[Inclosure in No. 237—Translation.]

*Firman of his Imperial Majesty the Shah.*

Being by the will of Almighty God at the head of justice in my country, and by His will the lives and property of this people having been intrusted to my keeping, I have deemed it my duty in praise of the God all-powerful, and in recognition of His munificence, to hinder those who would lay hands upon this trust to me confided, and to do all that lies within my power in order that my subjects may be secured in the enjoyment of life and property, so that tranquilly and in peace they may engage in all pursuits tending in the direction of civilization and acquirement of fortune.

This firman is proclaimed to the whole of Persia in order that all the people may know that the present edict accords to them the protection of life and property with full liberty to dispose of what is theirs, and the right to acquire wealth, to form companies, to establish manufactures, to make roads, and indeed to do all things tending to promote civilization and their own and the public welfare.

To see these ends accomplished will cause me great personal satisfaction. Also am I ready to do you justice, and stand myself as guarantor for the security of your interests.

No one in Persia shall have the right to lay hands upon you, to confiscate what is yours, nor to punish you without recourse to the divine or common law of the land.

Dated 14 Ramazan, 1305, A. H. (26 May, 1888, A. D.)

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* Not printed herewith.

No. 915.

*Mr. Pratt to Mr. Bayard.*

No. 252.] LEGATION OF THE UNITED STATES,
*Teheran, June* 23, 1888. (Received August 1.)

SIR: I have the honor to report that I have just been informed by his excellency the Emin é Soultan, minister of the palace, that his excellency Hadji Hossein Kouli Khan Motamed-el-Vésaré, the newly appointed envoy extraordinary and minister plenipotentiary from Persia to the United States, expects to leave here with his suite for Washington in about seventeen days, *via* Constantinople, Paris, Havre, and New York, and that it is the Shah's special desire that I request my Government, on being notified by cable of the envoy's departure from Havre, to arrange to send one of its steamers to meet the packet bearing him, so that he may be taken into port on a ship of the United States and receive a salute from the forts on entering.

Considering that His Majesty has on each occasion sent forward a special deputy with escort to meet American ministers arriving in Persia, and shown them in addition all military honors, I trust that there will be no difficulty in the way of extending in return the courtesy requested in the present instance.

I am, etc.,

E. SPENCER PRATT.

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No. 916.

*Mr. Pratt to Mr. Bayard.*

No. 254.] LEGATION OF THE UNITED STATES,
*Teheran, July* 3, 1888. (Received August 13.)

SIR: Referring to my No. 252, diplomatic series, of the 23d ultimo, I have the honor to report that I have now received from the minister for foreign affairs the official announcement of the appointment of his excellency Hadji Hossein Kouli Khan, Motamed-el-Vésaré, as envoy extraordinary and minister plenipotentiary from Persia to the United States, a copy of which announcement, with translation and copy of my official note in response, is herewith respectfully submitted for your consideration.

The Department will, I hope, approve of my course in this matter.

I am, etc.,

E. SPENCER PRATT.

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[Inclosure 1 in No. 254.—Translation.]

*Khavam ed-Douleh to Mr. Pratt.*

MINISTRY FOR FOREIGN AFFAIRS,
*Teheran*, 21 *Schatan* (2 July, 1888).

SIR: I have the honor to inform you that in order to fulfill the requirements of the friendship and good relations existing between our two great nations, and in accordance with what had been agreed to in the premises, his excellency Hadji Hossein Kouli Khan, Motamed-el-Vésaré, has been appointed, by order of His Imperial Majesty the Shah, envoy extraordinary and minister plenipotentiary near the Government of the United States, and directed to proceed to Washington with his letters of credence.

His Majesty's envoy has been given the necessary instructions in order to maintain the good relations which unite our two countries, and it is assumed that the ministers of your Government will aid him in the fulfillment of this mission.

Accept, etc.,

KHAVAM ED-DOULEH.

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[Inclosure 2 in No. 254.]

*Mr. Pratt to Khavam ed-Douleh.*

LEGATION OF THE UNITED STATES,
*Teheran, July* 3, 1888.

EXCELLENCY: I have the honor to acknowledge your official note of the 21st Schatan (2d July, 1888), apprising me of the appointment on the part of His Imperial Majesty the Shah of his excellency Hadji Hossein Kouli Khan, Motamed-el-Vésaré, as envoy extraordinary and minister plenipotentiary from Persia to the United States.

This announcement, which I shall forthwith transmit to Washington, will, I am sure, prove most gratifying to my Government and be received by it as evidence of the genuine friendship entertained by His Imperial Majesty for the United States and of His Majesty's sincere desire to firmly cement the amicable relations which have happily so long existed between the Persian and American Governments.

I have, etc.,

E. SPENCER PRATT.

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No. 917.

*Mr. Pratt to Mr. Bayard.*

No. 275.] LEGATION OF THE UNITED STATES,
*Teheran, August* 28, 1888. (Received October 3.)

SIR: I have the honor to report that I received this morning from the British minister here a note transmitting the transcript of a telegram he had received yesterday from Mr. Abbott, Her Britannic Majesty's consul-general at Tabriz.

Inclosed I beg respectfully to submit copies both of the note and of the telegram in question.

By the latter, you will observe it is apprehended that the Turkish Kurds intend crossing the borders and making a descent upon Tiary and Tehoman for the alleged purpose of massacreing the Christian inhabitants.

Fearing lest some of our missionaries might chance to be in one or the other of the above localities, I at once had Rev. S. Lawrence Ward, of this mission station, telegraph, at my expense, to the mission station at Oroomiah (the one nearest the Kurdish frontiers), urging if any Americans contemplated visiting the threatened region that they be deterred from so doing, and that such as were already there be warned forthwith to depart.

After this I called at the English legation and learned from Sir Henry Drummond Wolff that he had communicated the substance of the report from Tabriz to his excellency the Emin-é-Soultan, and also telegraphed the British ambassador at Constantinople to so represent the case to the Sublime Porte as to cause it to directly exert its authority over the tributary Kurds and restrain them from committing the contemplated act of aggression.

I do not anticipate any immediate danger to our citizens, but will cable you should the situation become critical and the necessity arise of resorting to special measures for their protection.

I have, etc.,

E. SPENCER PRATT.

[Inclosure 1 in No. 275.]

*Sir H. Drummond Wolff to Mr. Pratt.*

MY DEAR MR. PRATT: I have thought you would like to have a copy of a telegram received yesterday from Her Majesty's consul-general at Tabriz.

I communicated its contents to the Emin é Soultan and to the embassy at Constantinople.

Yours, very sincerely,

H. DRUMMOND WOLFF.

[Inclosure 2 in No. 275.—Telegram.]

*Mr. Abbott to Sir H. Drummond Wolff.*

Just received telegram from Canon Maclean, Oroomiah, that Kurds around Kochannes in Turkey have formed a plan to massacre Christians at Tiary and Tehoman. He requests me to take immediate steps for their protection. Rev. Browne, one of our clergy, is at Kochannes.

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## No. 918.

*Mr. Pratt to Mr. Bayard.*

No. 282.] LEGATION OF THE UNITED STATES,
*Teheran, September* 12, 1888. (Received October 20.)

SIR: I have the honor, in referring to my dispatches Nos. 275, diplomatic series, and 277, diplomatic series, of the 28th August, 1888, and 1st September, 1888, respectively, concerning the alleged Kurdish attack upon the Nestorian Christians on the West Persian frontiers, to herewith submit for your consideration the copy of a letter addressed by Rev. Mr. F. G. Coan at Kochannes to Rev. Dr. J. H. Shedd at Oroomiah, and forwarded by the latter to Rev. S. Lawrence Ward, in this city, who gave it into my hands.

In this connection I beg to state that the "Mar Shimoon" mentioned in Mr. Coan's letter is the Nestorian patriarch, and that the Maleks are elders of the tribes.

I have, etc.,

E. SPENCER PRATT.

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[Inclosure.]

*Rev. Mr. Coan to Rev. Dr. Shedd.*

[Extract.]

KOCHANNES, *Thursday, August* 23, 1888.

MY DEAR DR. SHEDD: Tuesday, August 21, a. m., we came on here to Kochannes. We had heard rumors of trouble down in Tiary, but here got full particulars, and they are sad and terrible. Their import is such that I send Benjamin down immediately as a special messenger to you with the following particulars:

A band of Koords came up by stealth on to the Asheetha zozanee pasture lands. Here were only women with the flocks. They took off 12,000 sheep, outraged and killed all the women, cutting one woman to pieces, and killing, besides, a small child. This is more than man can stand, and so the Tiary people went to see what could be done and found that the Koords, certain of revenge for such an attack, were combining in numerous numbers to completely destroy Tiary. Tkhoma has been warned and Tkhoma with the Apies-Arai Koords are now united with the Tiary people for the defense of their homes. It looks like a gigantic thing, as thousands and thou-

sands of Koords are gathering for war; it is but a fulfilling of the plan laid out in the spring.

I read two of the letters sent from Tiary and in both the post people are making an urgent appeal for help, and state that the beginning was by the Koords, and that they are anxious to prevent bloodshed, but will fight when it is necessary.

The Pasha is encamped above here, and to-day the Vali comes. Troops are being collected. All communication with Mosul is cut off by the Koords, so that there is no reliance in them. If Mimrod goes down to Tiary to scatter the people they will only fall an easy prey to the Koords. If there is a fight while he is there, the Government will say he precipitated it, so he is at a loss. Mar Shimoon and Mimrod say that God brought us here just at this crisis when we are greatly needed for advice and for witnesses to the truth. The Government lays the blame upon the Nestorians. We, who happen to know the truth, know how matters be. I can see help in only one way. To appeal to the Government is in vain; to telegraph here by Turkish lines is useless, so I send Benjamin to you as rapidly as possible, begging you, in the name of Mar Shimoon and Mimrod and this Christian people, to telegraph immediately to the consul at Tabreez, asking him to telegraph to Constantinople immediately that other powers interfere in behalf of the Nestorians. Benjamin will arrive Saturday. Write Dr. Holmes and the English consul the particulars and have them do something at once before it is too late.

Mimrod says if an answer or some word can come to the Turkish Government here and at Amadia within six to ten days, ordering them to disperse the Koords, it may save the whole of Kiary, Tkhoma, and the rest. He says he can hold the Nestorians in check if we only can hold back the Government and the Government the Koords. The English consul had better telegraph through Russia, not Turkey. All that is needed is orders from Constantinople to the Government here to interfere and let them know that Christians can not be massacred in the nineteenth century without arousing a Christian world.

I am, fraternally,

T. G. COAN.

AUGUST 27, 1888.

LATER.—The Maleks Mutron and Shom Yohannare of Dizare all summoned to Julamuk. Something is brewing, and the opinion is almost universally prevalent that foul play is to be made on Tiary. Authorities at Constantinople must be kept informed fully so as to be able to interfere if a general massacre of the Nestorians is contemplated.

T. G. COAN.

LATER.—The party from Gawar have come and the danger is passed for the present. The Vali heard from the telegrams on Sunday and Monday and he took a decided stand, summoned the chiefs of the Koords, at the same time he did those of the Christians or he would be after them. The head of the Kurdish army is Sheikh of Madumu in Susma. He is in that region much as Sheikh Abdullah was in this region. Great gratitude is due to Mr. Abbott and to Mr. Coan.

J. H. SHEDD.

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## No. 919.

### *Mr. Pratt to Mr. Bayard.*

[Extract.]

No. 291.] LEGATION OF THE UNITED STATES,
*Teheran, September* 28, 1888. (Received November 5.)

SIR: In my No. 32, consular series of the 4th instant, I had the honor to inform the Department on the subject of two Persian railways; one, recently completed between Teheran and Shat-Abdoul-Azim, and the other in course of construction from the town of Amol to Mahmudabad, on the Caspian Sea.

I have now the honor to report that information has reached me through most trustworthy private sources that the Shah's Government has just been asked by the syndicate which constructed the Shat-

Abdoul-Azim line to cede it, in addition, the exclusive right to connect by rail the cities of Koum, Teheran, and Casrine, with the intention of seeking later on the further grant to extend this system from the latter point northward to the Caspian Sea and from the former southward to the Persian Gulf.

I have, etc.,

E. SPENCER PRATT.

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No. 920.

*Mr. Bayard to Mr. Pratt.*

[Extract.]

No. 144.] DEPARTMENT OF STATE,
*Washington, October* 4, 1888.

SIR: I have now to apprise you that the Persian minister to the United States, Hadji Hossein Kouli Khan, arrived by the steamship *Servia* from Queenstown at New York on the 30th ultimo. The *Servia* was met at quarantine by Mr. J. Fenner Lee, chief clerk of this Department, on board of a United States revenue steamer, kindly placed at his disposal for that purpose by the Secretary of the Treasury, and on board of which the minister was transferred from the *Servia* and conveyed to that city. He reached Washington on the evening of the 1st instant, and at 1 o'clock in the afternoon of the 2d visited the Department, where I had the pleasure of an interview with him. The President having designated the 3d instant, at noon, as the day and hour when he would formally receive the minister in official audience, I accompanied him to the Executive Mansion at that time and introduced him to the President, when the usual delivery of the minister's letter of credence was made.

I am, etc.,

T. F. BAYARD.

# PERU.

## No. 921.

### *Mr. Buck to Mr. Bayard.*

[Extract.]

No. 376.] LEGATION OF THE UNITED STATES,
*Lima, Peru, May* 24, 1888. (Received June 18.)

SIR: I herewith inclose copies of papers relative to the outrages perpetrated against Mr. V. H. Mac Cord, at Arequipa, in June, 1885. They consist of a letter from Mr. Richard Gibbs, the United States minister to Bolivia, dated July 17, 1885; a letter from Mr. Mac Cord to me, dated July 24, 1885; and Mr. Mac Cord's protest, made before the British vice-consul at Arequipa June 16, 1885. Notwithstanding the dates, these papers have only been presented to me within the last few days.

In connection, however, I refer Department to my No. 48, of October 30, 1885 (see also Department's reply in its No. 41, of December 8, 1885); thus will appear explained why this matter has not been before officially presented. The reasons at that time existing have continued until a recent date; when the action of the Peruvian Government in seizing the railroads which Mr. Thorndike held, and of which Mr. Mac Cord was his general manager, relieved these gentlemen from the restraint of conflicting interest and prudence which hitherto had induced them to avoid an issue on the subject with the Government of Peru.

Mr. Mac Cord is at present consular agent of the United States at Mollendo, latterly commissioned November 12, 1886. (See Department's Register, page 31.)

Mr. Mac Cord states in a letter to me of May 14, 1888, that he was at the time of the outrage, viz, May 12, 1885, consular agent, under appointment dated February 10, 1883, made by Mr. Partridge, then United States minister to Peru, and was recognized as such at Arequipa February 20, 1883; and he incloses the certificate of his said appointment with his recognition, signed "Valcárcel," under the stamp of the minister of foreign relations, Peru. Of this I presume Department has its own record.

From Mr. Gibbs' letter it seems Mr. Mac Cord had previously tendered his resignation as consular agent, though my understanding is, at the time of the events complained of he had not been advised of its acceptance.

I am, etc.,

CHAS. W. BUCK.

[Inclosure 1 in No. 376.]

*Mr. Gibbs to Mr. MacCord.*

LA PAZ, *July* 17, 1885.

DEAR SIR: Your favor of 8th instant was duly received and contents noted.

I would advise you to make your protest as an American citizen, for the very fact of your having sent in your resignation, which must be on file somewhere, would, I think, debar you to claim as a consular agent and you had better be on the safe side. The protest should have been made at the time of the outrage or as soon after as possible, and a heavy claim, say 100,000 soles, as damages, at least, against Peru and all whom it may concern in any manner or form.

I advise you to give a detailed account of the whole matter and forward it immediately to Mr. Buck, the new minister at Lima, if you can not go in person, which would be preferable. You may as well make a big row about it at once, and the sooner the better. I can not say anything about it at present, as the affair is not in my country or post, but when I arrive at Lima I will have something to say, and more if I ever get to Washington. I send file of New York Herald up to June 1. Am awaiting my successor and hope to be on the way soon.

Yours, sincerely,

RICHARD GIBBS.

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[Inclosure 2 in No. 376.]

*Mr. MacCord to Mr. Buck.*

AREQUIPA, *July* 24, 1885.

SIR: I take the liberty to inclose herewith certified copy of a protest made by me before the British vice-consul in this city on the 16th day of last month, and beg you to advise me what further steps should be taken, if any, in order to make a claim for the outrages committed against my person, as set forth in the said protest.

I have the honor to be, Mr. Minister, yours, respectfully,

V. H. MACCORD.

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[Inclosure 3 in No. 376.]

*Protest of V. H. MacCord.*

By this public instrument of protest, be it known and made manifest to all whom it may concern that on the sixteenth day of the month of June, in the year of our Lord one thousand eight hundred and eighty-five, personally came and appeared before me, Alexander Hartley, esquire, acting British vice-consul at Arequipa, in the Republic of Peru, Victor Hugh MacCord, a citizen of the United States of North America, acting superintendent of the Arequipa, Puno, and Cuzco Railroads, who deposeth as follows: In consequence of the political events transpiring in this department of Arequipa since the eight instant, the prefect, Colonel Don Manuel San Roman (appointed by General Caceres), had caused all the engines to be retired from the Mollendo division and concentrated in this city. On the eleventh instant the said prefect ordered an engine and train of cars to be put at the orders and under the charge of Sergeant Major (Sarjento Mayor) Enrique Valdez for the purpose of conveying troops somewhere on the Mollendo division, which order was immediately complied with. During the absence of this train from Arequipa, namely, on Friday, the twelfth of June, by the perfidy of the engineer and the carelessness of the officer in charge, the engine ran away and joined the opposing forces at Mollendo. Notwithstanding the fact of the train having been put in charge of the commander of the troops and there being absolutely no blame attachable to any employé of the railway except the engineer, who ran away, the aforesaid MacCord was immediately imprisoned in the San Francisco barracks, where he received the following official note from the prefect, reading textually:

PREFECTURA DEL DEPARTAMENTO, *á* 12 *de Junio de* 1885.

Señor MACCORD,

*Superintendente de los Ferro-Carriles:*

Dicte U. por telégrafo todas las ordenes del caso para que la línea férrea entre Cachendo y la Joya quede inutilizada completamente. Tiene U. para ello plazo hasta mañana muy temprano para que esta órden terminante se cumpla; pues, estando como está U. en poder de la autoridad, que tiene que cumplir su deber en estas circunstan-

cias, el mero hecho de pasar de la Joya en direccion á esta ciudad la máquina fugitiva, me pondrá en el caso de fusilarlo sin la mas pequeña dilacion, pues U. es el único responsable de lo acontecido.

Dios gue. a Ud.

MANUEL SAN ROMAN.

At the foot of the same official note the following instructions were given, reading textually:

Señor A. TAMAYO, Pte:

Sirvase dictar las medidas mas eficaces para cumplir la órden del Señor Prefecto arriba indicada.

V. H. MACCORD,
*Cuartel de San Francisco, fecha ut supra.*

Some time after the receipt of the note an officer came to the cell and advised the prisoner to arrange his affairs, as there was an order to shoot him within an hour, and less than half an hour afterwards he was marched out to the parade ground and stood up before a file of soldiers armed with rifles, and asked if he wished to say anything, as he was to be shot. He replied that he had committed no crime, and had nothing to say. Thereupon the officers, three or four in number, retired a short distance and appeared to consult among themselves for a moment, when one said, "It is not good to kill a man," and they then led the prisoner back to the cell. In the mean time some friends, seeing that some of the officers were under the influence of liquor, and fearing for the life of the prisoner in such a place, had gone to the prefect and asked to have the prisoner changed to some other place of confinement, and at about midnight he was transferred to the "Cuartel de los Ejercicios." On the following day, June the thirteenth, the prisoner was verbally notified by the sub-prefect, Don Francisco Llosa, that by order of the prefect he must pay a fine of ten thousand soles for the escape of the engine, and that it must be paid at once or severe measures would be taken against his person to compel payment, that no delay would be allowed, and to the end that his orders might be strictly and rigidly carried out the prisoner would be remanded to the "Cuartel de San Francisco." Reply (also verbal) was returned, saying that it was entirely unjustifiable to impose a fine implying culpability without even a semblance of an investigation, and that a trial was asked for in order to establish the facts and show who was responsible for the escape of the engine. It was not allowed, and at about seven o'clock in the evening the threat of returning the prisoner to "San Francisco" was carried out.

In view of this proceeding, after what had transpired there the night before, the entire foreign colony resident in this city, headed by the consular corps, went in a body to the prefect's house and obtained from him a promise to have the prisoner confined in some other place which offered more security for his life, and that he would be given a prompt trial in accordance with the law of the country. The first was speedily complied with and the prisoner transferred to the "Cuartel de la Maestranza" the same evening. The following day, June fourteenth, notice was given by verbal message from the prefect that if the ten thousand soles was not paid before three o'clock in the afternoon the "extreme measures" threatened would be applied, and the fine increased to "fifteen thousand, and if delayed longer to twenty thousand soles." Reply was made reiterating the demand for trial and protesting against the illegality of the fine, and non-fulfillment of the promise of prompt trial made the night previous to the consular corps and to the several members of the foreign colony, which had not been kept: nor has this been done up to the time of entering the present protest. All was ignored, and only threatening replies were received. Convinced of the arbitrary proceedings which were evidently to be employed to compel the payment it was suggested that the amount of the fine be deducted from the balance due the railway by the Government for work done. This was also refused. On the morning of the fifteenth of June word was brought that by order of the prefect the prisoner MacCord should not be allowed either food or water, and that every article of furniture be removed from his cell, which order was forthwith carried out. The cell was a damp one, with a brick floor, and the prisoner was compelled to stand, as everything, even to a rough stone, which might have served as a seat, was taken away. Without anything to eat or drink since the previous day, it was impossible to stand this, and every exertion was now made to procure the money, which had to be borrowed, as, on account of the almost complete paralyzation of traffic for nearly a year past, owing to political disturbances, the company was unable to earn sufficient to even pay its workmen. Thanks to some of the commercial houses of this city, the money was raised, and at three o'clock in the afternoon the prisoner was allowed to go at liberty.

It appearing by the foregoing deposition that the laws of the country have been

defiantly infringed by an authority who, not being a judge, imposes fines and executes punishments arbitrarily and in violation of the laws, and by keeping a prisoner over the time allowed by law without submitting him to the proper tribunal for trial, and subjecting him to barbarous and inhuman treatment whilst so detained:

I, Victor H. MacCord, do make this my formal protest against the arbitrary and abusive proceedings of the aforesaid prefect of Arequipa, Colonel Don Manuel San Roman, and do declare that the ten thousand soles in silver coin were paid under pressure of violence and reserving the right to make claim to a higher authority and to the tribunals of justice of the country, and to appeal to diplomatic ways, if necessary, in defense of my own personal rights and in protection of the interests confided to my care.

Let it be put in record that the first use made of my liberty is to enter this protest at the British vice-consulate, this sixteenth day of June, one thousand eight hundred and eighty-five.

V. H. MACCORD.

Thus protested and declared in due form of law, at Arequipa aforesaid, the day, month, and year first before written.

[SEAL.] ALEX. HARTLEY,
*Acting British Vice-Consul.*

I, Alexander Hartley, esquire, acting British vice-consul at Arequipa, do hereby certify that the foregoing is a correct and exact copy of the original instrument of protest entered in the archives of this vice-consulate.

In witness whereof I have hereunto set my hand and seal of office, at Arequipa aforesaid, the sixteenth day of June, one thousand eight hundred and eighty-five.

[SEAL.] ALEX. HARTLEY,
*Acting British Vice-Consul.*

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No. 922.

*Mr. Rives to Mr. Buck.*

No. 208.] DEPARTMENT OF STATE,
*Washington, June* 23, 1888.

SIR: In your No. 376 of the 24th ultimo, you inclose copy of a protest made on June 16, 1885, before the acting British vice-consul at Arequipa, by Mr. V. H. MacCord, an American citizen, and now consular agent of the United States at Mollendo, detailing the outrages inflicted on him in June, 1885, by the prefect of Arequipa, Col. Don Manuel San Roman, who was appointed by General Cáceres.

Mr. MacCord was at that time acting superintendent of the Arequipa, Puno, and Cuzco railroads, and had caused all the engines to be withdrawn from the Mollendo division and concentrated at Arequipa. On June 11th the prefect of Arequipa made requisition on Mr. MacCord for an engine and train of cars, to convey troops to a point on the Mollendo division, placing the train under the command of Sergeant-Major Valdez. During its absence, while in charge of the said officer, the engineer detached his engine and ran off with it to the opposing forces at Mollendo. Although Mr. MacCord was in no way responsible for this occurrence, it having been the result of the treachery of the engineer and the carelessness of the guard, he was thrown into prison by the prefect and threatened that if use was made of the runaway engine he would be shot. A short while afterward he was taken out of prison, placed before a file of soldiers and asked whether he wished to say anything, as he was about to be shot. After a conference among the officers, he was, however, taken back to prison and ordered to pay a fine of 10,000 soles. Declining to do this, he was deprived of food and drink, and left standing in a damp cell, all the furniture, and even a stone on which he had been sitting, being removed. Finally, some of the commercial houses in the city having raised the funds necessary to pay the fine, he was released and immediately made protest, as above stated, on June 16, 1885.

The case has, you state, never been formally laid before your legation until the date of your dispatch, because it was feared that injury might be done to the railroad interests of Mr. MacCord's employer, Mr. Thorndike.

Mr. MacCord's explanation of his delay in presenting his claim is satisfactory to the Department, and you are instructed to present the case to the Peruvian Government, requesting an explanation.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

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No. 923.

*Mr. Bayard to Mr. Buck.*

No. 224.] DEPARTMENT OF STATE,
*Washington, August* 14, 1888.

SIR: Referring to your No. 48 of the 30th of October, 1885, I transmit for your files a copy of a letter of Mr. S. N. Pettis touching the alleged outrage on V. H. MacCord, an American citizen, to which your dispatch refers.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 224.]

*Mr. Pettis to Mr. Bayard.*

WASHINGTON, *August* 2, 1888.

SIR: In your letter to Senator J. D. Cameron, under date of March 22, 1886, relative "to the alleged outrage upon V. H. MacCord, a citizen of Pennsylvania," which occurred in Peru, South America, in June, 1885, you say: Mr. Buck reports to this Department "that the circumstances referred to transpired previous to his arrival in Peru, but that no protest or complaint from Mr. MacCord was found upon the records of the legation, nor has any been since received."

I now have the honor, as the representative of Mr. MacCord, to inclose you a copy of Mr. MacCord's protest, made immediately after his liberation, and at once forwarded to the American minister at Lima, Peru.

I am also informed by letter from Mr. MacCord that the action of the prefect, Manuel San Roman, was in December, 1886, submitted to the Government of Peru, at Lima, and without notice to either Mr. MacCord or the railroad company investigated and approved, an official notice of which was given Mr. MacCord, dated the 22d day of December, 1886.

May I ask if this additional statement of facts does not entitle the case of Mr. MacCord to fresh consideration by our Government?

I have, etc.,

S. NEWTON PETTIS.

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No. 924.

*Mr. Buck to Mr. Bayard.*

No. 418.] LEGATION OF THE UNITED STATES,
*Lima, Peru, August* 29, 1888. (Received September 26.)

SIR: I have received and just read a note from the foreign office in reply to my No. 110 of August 6, relative to the MacCord outrage of June, 1885. It is impossible to have copy or even translation made for

mail leaving to-day. But the note states: The Government has no notice of the facts, and that it is not possible to ascertain whether the statements of Mr. MacCord are true after so long a time.

Then it emphasizes that Mr. MacCord has since the date of the alleged events been in good relations with the prefect, San Roman, as United States consular agent, and during all the subsequent time while in full possession of his rights has made no question, until now when it is noticeable that he has only done so when the prefect, San Roman, in compliance with the Government's orders, has removed him from being superintendent of the southern railroads. But in no event can this be made a diplomatic question, especially after so long a silence.

The acts, if they occurred, emanating from a chief in arms against the Government then recognized as legitimate by all nations, especially by that of the great Republic, responsibility for them could only rest personally upon the author, and not upon the Government of the nation. That responsibility could not in any case be made effective until after proof before the national tribunals and in virtue of the judgment they should pronounce.

And finally, that the only way open to Mr. MacCord is to follow judicially the personal responsibility of the author, the burden of proof resting upon the claimant. The note closes with expression of confidence that I will be satisfied of the impossibility of his Government supplying information solicited, and of the justness of the views stated.

The above analysis of Minister Alzamora's said note will, I think, give about as adequate an idea of its contents as a copy of text, and translation in full, though these will be forwarded when made, at first opportunity.

Although I think I can judge what opinion you will have of the note, perhaps it may be expedient to exercise deliberation, and not answer reasoning presented until I shall formally be advised of Department's pleasure, especially as the main points have been considered and replied to by me so often in other cases.

I am, etc.,

CHAS. W. BUCK.

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No. 925.

*Mr. Buck to Mr. Bayard.*

[Extract.]

No. 420.] LEGATION OF THE UNITED STATES,
*Lima, Peru, September* 7, 1888. (Received October 3.)

SIR: Referring to my No. 418 of 29th ultimo, I now inclose textual copy of foreign office note No. 30, of August 28, 1888, relative to the "MacCord outrage" of June, 1885, with translation.

I will add, after some conversation with Minister Alzamora on the subject, I concluded it would be best, in view of the brief character of my first note, to address him in a second, of which I send copy, and which will show (of record) positions taken, and my reasonings in connection.

Upon reflection I considered this had better be done with such promptness as would not allow, from delay, the indulgence on the part of this Government of presumptions unfavorable to the claimant.

It may be pertinent to add, on the 3d instant Minister Denegri was interpellated in the senate by Señor Llosa. I therefore inclose newspaper cuttings of the whole, with translations of parts pertinent—that is of the sixth, seventh, and eighth interrogations and answers—the sixth as showing the disposition of Minister Denegri towards foreigners, the seventh and eighth as expressive of his opinion concerning Prefect San Roman, and Government approval of his acts.

Copy of the decree re-appointing Colonel San Roman (the author of the MacCord outrage) was sent as mentioned in postscript of my No. 409 of August 6, 1888.

SEPTEMBER 11, 1888.

Since writing the above I have just received your No. 224, of August 14, inclosing copy of letter from Hon. S. N. Pettis, and copy of protest "touching alleged outrage" on Mr. V. H. MacCord.

Before writing of that dispatch, Department had been fully advised in this matter, and furnished copy of Mr. MacCord's said protest, with my No. 376 of May 24 last, as shown by its instruction No. 208 of June 23, 1888.

I am, etc.,

CHAS. W. BUCK.

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[Inclosure 1 in No. 420.—Translation.]

*Mr. Alzamora to Mr. Buck.*

No. 30.] MINISTRY OF FOREIGN RELATIONS OF THE REPUBLIC OF PERU,
*Lima, August* 28, 1888.

Mr. MINISTER: Your excellency's esteemed communication of the 6th instant was duly received in this office, in which your excellency indicates having received instructions from the Department of State to submit to my Government the case of Mr. Victor H. MacCord, now consular agent of the United States at Mollendo, and to ask for an explanation of the circumstances; and that Mr. MacCord has given reasons for not presenting sooner his claim to the Government at Washington, which delay is satisfactorily explained in said Government's mind.

Your excellency incloses a copy of the protest made by Mr. MacCord before Her British Majesty's vice-consul at Arequipa for my information as to the facts, according to the exposition contained in it, and your excellency terminates requesting information as to the truth of what occurred.

My Government has never had knowledge of the facts referred to in said protest, nor would it be in its power to satisfy itself of the truthfulness contained in said protest after the long time transpired, since the protest is dated June 16, 1885.

It appears noticeable that Mr. MacCord should have made no question during all this time after he had not only obtained the full use of his rights, but has exercised his authority as consular agent of the great Republic. It being a most special circumstance that Mr. MacCord has been accredited as consular agent at Mollendo during the administration of the same Mr. San Roman, against whom the protest appears to be made, and, as your excellency knows, he is prefect of the department of Arequipa, to which Mollendo pertains. It is still more remarkable that Mr. MacCord, having cultivated with the prefect of Arequipa the most friendly relations during two years without ever having mentioned the protest in question, should make use of it now that Mr. San Roman, in obedience to the orders of the Government, has removed Mr. MacCord from the superintendence of the southern railways, which he exercised as it appears from said protest.

But no matter what the realities or facts to which Mr. MacCord refers, they can in no case serve as grounds for diplomatic action, and still less so after the long time transpired.

These were in fact the acts of a chief in arms against the Government then recognized as legitimate by all nations, especially by the great Republic. The responsibility, if such should exist, does not therefore rest upon the Government of the nation, but personally on the authors of them.

That responsibility in any case could not attach except after proof of the acts in question before the national tribunals, and as the result of their judgment.

Mr. MacCord has therefore no other course but to prosecute judicially the authors of the acts to which he refers in his protest, and which he is bound to prove.

I have no doubt that your excellency will be persuaded by this statement that it is not possible for my Government to furnish your excellency with the information required, and that the principles I have laid down are just, as indicating the only way open to the claimant in order to obtain the reparation which he may believe himself entitled to.

I am, etc.,

ISAAC ALZAMORA.

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[Inclosure 2 in No. 420.]

*Mr. Buck to Mr. Alzamora.*

No. 112.] LEGATION OF THE UNITED STATES,
*Lima, September* 3, 1888.

Mr. MINISTER: In my interview of Friday last, in which references were made to my note No. 110, of August 6, 1888, and foreign office No. 30, of August 28, 1888, in reply, relative to the outrages perpetrated upon Mr. Victor H. MacCord in June of 1885 under the orders of Señor San Roman, then in military command at Arequipa, your excellency indicated that it was desirable to have the reasons for the delay of Mr. MacCord in presenting his case stated in the form of a note to the foreign office.

In response, it is to be observed, as I stated at the time, that there is no such thing as a bar by limitation of time affecting diplomatic rights; and as a better expression of this view, I may quote from a dispatch of the State Department touching this subject in our relations with Chili as far back as 1844, in which the Secretary pertinently wrote:

"There is no statute of limitation as to international claims, nor is there any presumption of payment or settlement from the lapse of twenty years. Governments are presumed to be always ready to do justice, and whether a claim be a day or a century old, so that it is well-founded, every principle of natural equity, of sound morals, requires it to be paid."

While, therefore, I apprehend judgment upon the question of delay in this matter is solely within the discretion of the United States Government, and the announcement that the reasons therefor have appeared satisfactory to it should be conclusive upon that point, still, as an evidence of disposition to meet your excellency's wishes as far as possible, I present the following statement and views thereon, suggested by your excellency's request and verbal expressions made in the said interview.

Stated in brief, the facts appear substantially these: On June 11, 1885, the prefect of Arequipa, Colonel San Roman, then commanding the "Cáceristforces" in that section, who, according to your excellency's note, were in insurrection against the Government at Lima recognized by foreign powers, the United States included, made requisition on Mr. MacCord, the general manager of the southern railroads, in the employment of the concessionaire, Mr. J. L. Thorndike, for an engine and train of cars to convey troops to a point on the Mollendo division of the road, placing the train under the command of Sergeant Major Valdez. While in charge of said officer, the engineer detached the engine and made off with it to Mollendo, then in possession of the Iglesias forces.

Although Mr. MacCord was in no way responsible for this occurrence, it having resulted from the treachery of the engineer and the carelessness of the guard, he was thrown into prison and threatened by the prefect that if use was made of the runaway engine he would be shot. Thereafter he was placed before a file of soldiers, asked if he wished to say anything, and told that he was about to be shot; but after conference among the officers, he was remanded to prison and ordered to pay a fine of 10,000 soles. Declining to do this, he was deprived of food and drink, and left standing in a damp cell, without furniture, even a stone which he had used as a seat being removed. Finally, after protest of the foreign residents of the city, headed by the consular corps, made in vain against the outrage, some commercial houses of the city raised the funds with which the fine was paid, and Mr. MacCord was then released, whereupon he immediately made protest, on June 16, 1885, before Her Britannic Majesty's vice-consul, copy of which protest has been supplied the foreign office with my No. 110 of August 6, 1888.

At the time and until recently Mr. MacCord was in the employment of Mr. John L. Thorndike as manager of the said railroads. Therefore, in deference to the interests and discretion of Mr. Thorndike, in view of his relations to the Peruvian Government as concessionaire of the said railroads, which it seems Mr. MacCord felt obligated to regard while himself Mr. Thorndike's employé in superintendence of said roads, he (Mr. MacCord) delayed presenting the matter to his Government until a change of cir-

cumstances relieved him from such considerations. When I add that the foregoing circumstances had been fully submitted to and considered by the United States Government before it instructed this legation to present the matter to your excellency, there only remains, I think, one more objection of your excellency to answer. That is the assertion that as "Señor San Roman" was a chief in insurrection against the Government of Peru recognized by foreign powers, the United States included, your excellency's Government is not responsible, diplomatically, in the premises, and that Mr. MacCord's only course, if his allegations are true, is to prosecute judicially the said San Roman upon a personal responsibility for his acts.

Your excellency, as a reason for this position, said:

(1) That there existed a law in Peru that the Government could not be held responsible for any acts committed by insurgents or revolutionists, and foreigners were tacitly accepted into the country under that condition.

(2) That according to universally admitted international law, a government could not be held responsible for mob or insurrectionary violence.

Concerning the first point, I apprehend that the only force such local law as that to which your excellency refers can have, so far as affecting diplomatic relations, is to establish at the outset that there is no adequate judicial remedy in Peru for a claimant, since such local law bars recourse against the Government through the courts; consequently direct diplomatic intervention offers the only means open to Mr. MacCord as an adequate remedy for a manifest and notorious tort.

On the other hand, I may call attention to the fact that so far from being in the country solely subject to the conditions of the local law referred to by your excellency, Mr. MacCord was here not only under the larger principles of international law, but under the incontrovertible guaranties of a treaty then existing between the United States and Peru, article 16 of which declared: "The high contracting parties promise to give full and perfect protection to the persons and property of the citizens of each other, of all classes;" again, in the said treaty of 1870 it was declared: The citizens of either country within the territory of the other "shall not be liable to imprisonment without formal commitment under a warrant signed by a legal authority, except in cases *flagrantis delicti;* and they shall in all cases be brought before a magistrate or other legal authority for examination within twenty-four hours after arrest; and if not so examined, the accused shall forthwith be discharged from custody;" also, "they shall not be called upon for any forced loan or extraordinary contribution for any military expedition, or for any public purpose whatever, nor shall they be liable to any embargo, or be detained with their * * * goods or effects, without being allowed therefor a full and sufficient indemnification which shall in all cases be agreed upon and paid in advance."

Since this treaty was in full force at time of the outrage, and until March 31, 1886, and, as I have had occasion to remark in another case involving a like question, "was obligatory whether the state was that of war or peace, or whatever might be the circumstances of Peru during the existence of the compact," the matter may probably appear as thus disposed of.

But, concerning the general principle, even outside of treaty obligations—to illustrate how different has been the view of Peru at another time—I might refer your excellency to the correspondence between Mr. Seward and Mr. Barrada relative to the effort made by Peru to hold the United States Government responsible for the destruction of Peruvian property in 1862 on board a ship in Chesapeake Bay, through the sudden attack of insurgents, notwithstanding the ship ventured into waters which were in the recognized limits of hostilities between the United States Government and the Southern States, at the time engaged, in not only rebellion, but in one of the most fiercely contested and protracted wars of modern times, so formidable in its nature that not only foreign nations, but the United States Government itself virtually conceded to the rebellious States which had a distinct geographical as well as political autonomy, "belligerent rights."

Although, of course, such a contention on the part of Peru could not under the circumstances be sustained, still the incident is instructive as indicating when Peruvians have been the sufferers how widely the ideas of the foreign office have diverged from those now expressed by your excellency.

Here, too, I may refer to note No. 95 of August 31, 1878, of Mr. Gibbs to Dr. Manuel Yrigoyen, then minister of foreign relations of Peru, in a claim growing out of mob violence, in which allusion is made to the Spanish claims for losses, etc., caused by mobs in New Orleans and Key West in 1851, which were paid for by the United States Government, of which I have made mention in the course of conversation with your excellency.

Under date of June 20, 1834, Mr. McLane, Secretary of State, wrote, concerning a contention of Mexico similar to that made by your excellency.

"The mere revolutionary state of a part of Mexico can not be accepted by the United States as a defense to a claim on Mexico for injuries inflicted on citizens of the United States in Mexico in violation of treaty engagements."

I may also quote the language of Mr. Fish, Secretary of State, to Mr. Foster in Mexico, dated August 15, 1875, as follows:

"If a country receives strangers within its limits, it thereby incurs a liability to protect them from violence, not only on the part of its own authorities, but ordinarily also from violence on the part of insurgents. This latter ground of liability may be regarded as continuing at least until the Government of a neutral country whose citizens may be aggrieved in the course of the hostilities shall recognize the insurgents as entitled to belligerent rights."

I need hardly remind your excellency so far as known there had been no concession of belligerent rights to the revolutionary Government to which pertained "Señor San Roman" when the outrages were perpetrated on Mr. MacCord, either by the Government of Peru recognized at the time by foreign countries, or by any foreign nation diplomatically represented in this capital.

In conversation your excellency asked me, as though the question itself involved a refutation of the idea of national responsibility for the acts of the said "Senor San Roman": Would not the United States Government have indignantly rejected a claim made against it for the acts of the government of Jefferson Davis?

To which I replied, that I should have to know the character of such claim in order to properly answer your excellency. But perhaps in general terms I had better let the words of the State Department stand for themselves on this point.

Those from the Secretary of State to Mr. Foster, dated December 16, 1873, are:

"It is true that this Government has not confessed its liability for the injuries to foreigners by persons claiming authority in the South during the rebellion. The reason for this disavowal is believed to be that belligerent rights had tacitly, at least, been granted to insurgents not only by this Government but by those of the principal European nations. This is a concession which may be allowed to carry with it an acknowledgment that the party in whose favor it may be made is both competent and willing to do justice to the citizens or subjects of the grantor, and indeed may of itself be allowed to exempt the other party from such accountability. * * * The foreigners who were so injured are citizens or subjects of countries who acknowledged the insurgents as belligerents."

But whatever may be the different opinions as to the general international rule concerning responsibility or non-responsibility of a government for revolutionary violation of personal and property rights of neutrals, and whatever its limitations or qualifications, this case in reality involves other reasons that place it upon more elevated grounds of equity, the irresistible force of which I think will be apparent.

Your excellency has commented upon the two distinct governments existing in Peru at the time of the MacCord outrage, but it will be remembered that by the act which Generals Cáceres and Iglesias signed December 2, 1885, both governments were, by their mutual consent, merged into the provisional government then established, of which the present Government, by popular and peaceable determination, made under the authority and administration of said provisional government, is the successor; so that whatever may have been the character of either the Iglesias or the Cáceres governments, by consent of each and of the people of Peru, given through the subsequent elections, the present constitutional Government reigns as the successor of both; and hence should be considered responsible for the acts committed by the officials, or under the authority, of both, so far as they affect the interests of United States citizens.

Mr. Gallatin wrote, February 11, 1824, to Mr. Pierce:

"The doctrine that the present Government of France is not responsible for any injuries committed against the Americans by that of Bonaparte is so contrary to the acknowledged law of nations * * * that it is not probable that it will be officially sustained."

And President Jackson stated in his message, 1835:

"The defense to a diplomatic appeal for redress for spoliations that the wrong was done by a former sovereign, who was a usurper, is unfounded in any principle in the law of nations, and now universally abandoned, even by those powers on whom the responsibility for acts of past rulers bore most heavily."

The French spoliation claims were, it may be remembered, therefore, finally settled by France.

I might add that upon dissolution of the Colombian Confederacy the United States Government in 1839 informed its members that it would hold them jointly and severally liable for our claims. That case was simply inverse to this; in Colombia there was dissolution, and in Peru there was consolidation of powers, perhaps making this case, therefore, the stronger upon principle.

In June, 1885, General Cáceres was the head of one of the contending governments in Peru, neither of which exercised supreme control over the whole of the national territory. But after mutual arrangement, as above referred to, under the act of December 3, 1885, on the 3d of June, 1886, General Cáceres, to whose Government Colonel San Roman had pertained in his occupancy of Arequipa, was installed as the constitu-

tional President of the Republic. This was done after due ascertainment of the popular will, and by the proclamation of the Peruvian Congress, assembled as stated by the Provisional Government in fulfillment of the arrangement of December, 1885, made between Generals Cáceres and Iglesias.

The outrages perpetrated against Mr. MacCord in June, 1885, were of general notoriety at the time, and of such a character as excited general indignation among foreign residents in Arequipa to an extent that elicited their united action in remonstrance, and in a demand for legal trial, which, in violation of treaty and legal guaranties, was not accorded; nor was Mr. MacCord released until the money was raised and paid to the said Colonel San Roman, exercising authority under the government of General Cáceres, to the benefit of which the funds so paid accrued, in the defense of the cause of General Cáceres, and in resisting the "Lima Government."

The above circumstances are believed to be of public notoriety and at least in the main undeniable, but they are referred to, subject to correction in any details if not accurately stated.

I may quote as pertinent to the imposition placed upon Mr. MacCord, language used relative to other acts of a similar kind in behalf of the same political partisans, and about the same time, viz, the seizure of certain guano at Mollendo appearing to belong to United States citizens, which is equally applicable here: "It was appropriated to sustain a cause which has become national by the voluntary action of the people of Peru, its chief representative being at the present time the duly elected constitutional Executive of the Republic"—with this difference, the seizure of the guano was not, it seems, accompanied by acts of personal violence and cruelty.

Moreover, this same San Roman was retained as prefect at Arequipa, first by the provisional government of the council of ministers, and then by that of the present government; and not only so, but the same Señor San Roman upon the expiration of a two years' term as such prefect under the present administration of General Cáceres, has been recently re-appointed to the same office, with an official statement that his services have been satisfactory to the Government of Peru. Thus the responsibility of your excellency's Government for the said acts of Prefect San Roman not only seem fixed by the arrangement of December 2, 1885, and the triumphant succession in pursuance of it of General Cáceres to the chief executiveship, but that responsibility seems still further emphasized by the consecutive re-appointment of Colonel San Roman to the same post in which the outrages were perpetrated on Mr. MacCord, and by the public official approval of his acts in the decree making the re-appointment, dated August 11, 1888.

Trusting that your excellency will, with this fuller presentation, recognize the justice of the observations, respectfully presented, I avail, etc.,

CHAS. W. BUCK.

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[Inclosure 3 in No. 420.—Translation.]

*Interpellation of Mr. Denegri by Mr. Rosas.*

Mr. Rosas asked that the minister should answer each of the inquiries which he had prepared, and which were as follows:

* * * * * * *

6. Will the minister state why he was guilty of the crime of falsehood, which is provided for and made punishable by our penal code, when he asserted, in various official telegrams, that treasury notes were still in circulation, on the very days when everybody declined to receive them? What was his object in laying the blame of this upon foreign thieves, thereby offending all foreigners residing in this country? Will he state whether it is not true that the decree whereby he ordered possession to be taken of the Trujillo Railway was based upon grounds which had no existence in fact?

7. Will he state what reasons he had for conferring the appointment of prefect of Arequipa upon Colonel Manuel San Roman, whose violations of the constitution have been so frequent and so notorious? Will he also state whether he thinks that it was in harmony with the principles of sound policy, and with the respect which is due to law, to confirm that appointment for two years more, without requiring the appointee to give any account of his official acts?

8. Will the minister say whether he is willing to be held responsible for the violations of the constitution of which the aforesaid prefect has been guilty? His declaration that the Government is satisfied with the course pursued by Colonel San Roman is equivalent to saying that he accepts the responsibility for that officer's acts.

In reply to the sixth inquiry the minister stated that he did not remember the exact words of his telegrams, but that if there was any discrepancy between them and the

facts, this was doubtless to be attributed to circumstances, for he knew that the merchants had pledged themselves to receive the treasury notes, although they afterwards refused to do so; that as to the foreign thieves, the whole country knew that the men who had tried to stir up disorder, so that they might be benefited thereby, were foreigners; that not a few of the mischief-makers had been imprisoned, all of whom were foreigners. As to the Trujillo Railway he asked that it might be clearly stated which of his decrees on this subject was the one meant.

Mr. Llosa said that the public and the whole country had already passed judgment upon the acts of the minister, and that it was consequently useless to discuss that point.

The minister then said that as the seventh and eighth inquiries had reference to the same thing he would answer them both at once. Colonel San Roman, he said. had been considered the most suitable person to fill the office of prefect of Arequipa, and the Government had approved his acts because of their correctness. The minister stated, in conclusion, that so strong was his conviction on this subject that he declared himself jointly responsible for the violations of the constitution which had been committed by the aforesaid prefect.

Mr. Llosa said that when Mr. Denegri had assumed the duties of his office the Government had agreed to remove the prefect, who had brought great discredit upon himself to such an extent that it would not be strange if a disturbance involving serious consequences to the country should arise at Arequipa solely on account of the acts of this corrupt prefect.

The minister replied that if Mr. Llosa thought that Colonel San Roman had been guilty of violating the constitution he was at liberty to demand his removal and to prefer the necessary charges.

The senate then took a brief recess.

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## No. 926.

### *Mr. Rives to Mr. Buck.*

No. 232.] DEPARTMENT OF STATE,
*Washington, October* 8, 1888.

SIR: I have to acknowledge the receipt of your No. 420 of the 7th ultimo, in which you inclose copies of correspondence with the minister of foreign relations of Peru, on the subject of the outrage upon Mr. V. H. MacCord in 1885.

Your note of the 3d ultimo to Mr. Alzamora is generally approved, but, for your guidance in the future, it is proper that the Department should state some qualifications of the doctrines you have announced on the subject of the liability of a Government for the acts of insurgents whom it could not control, and for the violence of mobs.

In respect of the latter, it is the doctrine of this Department that a Government can not be held to a strict accountability for losses inflicted by such violence. This subject has recently been discussed in the correspondence between this Government and that of China, in relation to the outrages inflicted upon Chinese subjects at Rock Springs and other places in the United States by bands of lawless men. While the United States have paid a considerable sum towards the relief of the unfortunate victims of these outrages, yet this has been done as an act of generosity and friendship, and not in pursuance of an acknowledged liability. The position of the Government was the same in reference to the attacks on the Spanish consulate in New Orleans, in 1850, to which you advert in your note to Mr. Alzamora as affording an acknowledgment of the liability of a Government for acts of mob violence towards foreigners. A full discussion of that incident will be found in the note of Mr. Bayard to Mr. Cheng Tsao Ju, of the 18th of February, 1886, published in Foreign Relations for that year.

In regard to the question of the liability of a Government for the acts of insurgents whom it could not control, it may be admitted that there is some contrariety in the opinions the Department has heretofore expressed. But, while you cite to Mr. Alzamora the contention of his Government in regard to the liability of the United States for the destruction of a Peruvian ship by insurgents in the Chesapeake Bay, in 1862, it must also be remembered that the position the United States took on that subject was that such destruction having been effected by a sudden attack of insurgents which could not, by due diligence, have been averted, the Government of the United States was not bound to make indemnity.

On the whole, the Department has to commend the industry and care exhibited in the preparation of your note.

Inclosed herewith is a copy of a letter of the 2d instant, with accompanying papers from Mr. S. Newton Pettis, who has addressed the Department as counsel for Mr. MacCord.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

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[Inclosure 1 in No. 232.]

*Mr. Pettis to Mr. Bayard.*

MEADVILLE, PENNSYLVANIA, *October* 2, 1888.

SIR: Since the receipt of Mr. Secretary Adee's reply to mine of the 25th of last July addressed to you (the Secretary's under date of August 14, 1888), I concluded to make a formal claim in favor of Mr. V. H. MacCord against the Peruvian Government in South America, which I have the honor to inclose to you herewith.

I am, etc.,

S. NEWTON PETTIS.

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[Inclosure 2 in No. 232.]

*Petition of Mr. MacCord.*

The memorial of Victor H. MacCord, at present sojourning at Arequipa, Peru, South America, begs leave to present:

First. That he is a citizen of the United States and was born in Mercer County, Pennsylvania.

Second. That he has been in Peru, South America, most of the time since 1870, and much of the time in the employ of the Mollendo, Arequipa and Puno Railroad Company, and at one time acted as United States consul in Peru.

Third. That he visited his home in Pennsylvania in 1883, from there going back to Peru for the purpose of closing up his affairs in South America, which he informed his relations in Pennsylvania he thought he could do within two years, with the intention of returning to his home in Pennsylvania, never having abandoned his United States citizenship.

Fourth. That while in Peru he represented American interests, that it has always been his intention to return to the United States, and that his residence in Peru has been only temporary, and for business purposes, and that he has never acquired a domicile in Peru, or out of the United States.

Fifth. That he was in June, 1885, an employé of the Mollendo, Arequipa and Puno Railroad Company, in the Republic of Peru, South America, with his headquarters at Arequipa.

Sixth. That on or about the 12th day of June, A. D. 1885, your memorialist was by the order of the prefect of the city of Arequipa, Peru, Colonel Don Manuel San Roman, without any cause or provocation, arrested and imprisoned in the San Francisco Barracks at Arequipa, and while so imprisoned and in such confinement your memorialist received from the said prefect a communication, of which the following is a true copy:

"Give by telegraph the necessary orders to completely destroy the railroad track between Cachendo and La Joya. You have time to comply with this terminal order

until to-morrow early, because being, as you are, in the power of the authority who has to perform its duty in these circumstances, the mere fact of the fugitive engine attempting to pass La Joya in direction of this city will put me in the case of shooting you without the least delay, as you are the only person responsible for what has happened. God guard you.

"MANUEL SAN ROMAN."

At the foot of which official note the following instructions are given:

"Mr. TAMAYO,
"*Resident Engineer:*

"Please dictate the necessary measures to carry out the above indicated order of the prefect.

"Fecha ut supra.

"V. H. MACCORD,
"*San Francisco Barracks.*"

Seventh. That some time after the receipt of the foregoing note or communication, an officer came to the cell in which your memorialist was confined, and advised him to arrange his affairs as there was an order to shoot him within an hour, and that in less than half an hour afterwards he was marched out to the parade ground and stood up before a file of soldiers armed with rifles, and asked if he wished to say anything as he was about to be shot, whereupon your memorialist replied that he had committed no crime, no offense, and had nothing to say; thereupon, three or four of the officers retired a short distance, and appeared to consult among themselves for a moment, when one said, "It is not good to kill a man," and then led your memorialist back to the cell from which he had been taken.

Eighth. That upon the following day your memorialist was verbally notified by the sub-prefect that, by order of the prefect, your memorialist must pay a fine of 10,000 soles, and that it must be paid at once, or severe measures would be taken against his person to compel the payment, and that no delay would be allowed, when your memorialist replied that it was entirely unjustifiable to impose a fine implying culpability without even a semblance of an investigation, and asked that a trial be given him, which was refused.

Ninth. That soon after the entire foreign colony resident in the city of Arequipa went in a body to the prefect's house and obtained from him a promise to have your memorialist (still a prisoner) confined in some other place which offered more security for his life, and that he would be given a prompt trial in accordance with the laws of the country.

Tenth. That on the following day, June 14, notice was given your memorialist by verbal message from the prefect that if the 10,000 soles were not paid before 3 o'clock in the afternoon, the "extreme measures" threatened would be applied, and the fine increased to 15,000 soles, and, if delayed longer, to 20,000 soles, whereupon your memorialist again protested against the illegality of the fine, and demanded the trial promised the night before to the consular corps and the several members of the foreign colony, which was refused, and threatening replies only received.

Eleventh. That your memorialist, convinced of the arbitrary and brutal proceedings which were evidently to be employed to compel payment, it was suggested that the amount of the fine (although entirely unauthorized) be deducted from the balance due your memorialist's employer, the railroad company, from the Government for work done, but that was refused.

Twelfth. That on the morning of the 15th of June, 1885, your memorialist was informed that by order of the prefect your memorialist could not be allowed either food or water, and that every article of furniture be removed from his cell, which order was forthwith carried out, such cell being a damp one, with a brick floor, and your memorialist was compelled to stand, as everything, even a rough stone, which might have served as a seat, was taken away.

Thirteenth. That it being impossible to exist without food or drink, thanks to some of the commercial houses of the city of Arequipa, the money was raised, to wit, the sum of 10,000 soles, and paid, and at 3 o'clock in the afternoon your memorialist was allowed to go at liberty.

Fourteenth. That in view of and in consequence of the foregoing recital of acts of indignity, barbarity, and illegality your memorialist lost no time in making formal protest before Hon. Alexander Hartley, acting British vice-consul, at the British vice-consulate, on the 16th day of June, 1885, against the arbitrary, abusive, and barbarous proceedings of the aforesaid prefect of Arequipa, Colonel Don Manuel San Roman, declaring that the 10,000 soles in silver were paid under pressure and threats of violence, reserving the right to make claim to a higher authority, and to appeal to diplomatic means, if necessary, in defense of his rights, and that the first use made of his liberty was to enter such protest at the British vice-consulate, as aforesaid.

Fifteenth. That such protest was, by your memorialist, promptly forwarded to the United States legation at Lima, Peru, with the following certificate attached:

"Thus protested and declared in due form of law, at Arequipa aforesaid, the day and month and year first above written.

"ALEX. HARTLEY,
"*Acting British Vice-Consul.*"

Sixteenth. That the said prefect on the 8th day of December, 1886, solicited the approval of his proceeding against your memorialist by the Peruvian Government, when, without either notice to or hearing of your memorialist, the Peruvian Government proceeded under the date of December 15, 1886, to approve, and did approve of the said action of the said prefect, Col. Don Manual San Roman, in the matter of which your memorialist was informed by official note, dated the 22d day of December, 1886.

Seventeenth. That since the 13th of June last (1888) your memorialist was again made the victim of Peruvian persecution, by the authorities of Arequipa, Peru, confined and imprisoned in his own office for five days, so confined for twenty-seven hours without food or water, for the purpose of forcing your memorialist to pay the amount of $3,000 for taxes levied on the railway by the authorities, although your memorialist was neither stockholder nor director in the said railway company, while his connection with it had ceased some time before, and of which oppression and barbarous treatment your memorialist made complaint, and of such abusive proceedings he protested before the English minister, and for all of which abuse, maltreatment, and persecution your memorialist makes complaint to you, the high official of his Government, and in such connection asks that reparation be demanded by the Government of the United States of the Peruvian Government, and your memorialist's claim of $200,000 indemnity for the treatment herein complained of be promptly prosecuted; and he will ever pray.

VICTOR H. MACCORD,
By S. NEWTON PETTIS,
*His Attorney, No. 302 Chestnut street, Meadville, Pennsylvania.*

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[Inclosure 3 in No. 232.]

*Affidavit of Mrs. Sarah Ann Allen.*

COMMONWEALTH OF PENNSYLVANIA,
*Crawford County, ss:*

Mrs. Sarah Ann Allen, formerly Mrs. Dr. MacCord, being sworn, says that she was born on the 11th day of February, 1819, near Meadville, Crawford County, Pennsylvania; that she is now a resident of Linesville, in the county aforesaid, and was in 1885; that Victor Hugo MacCord, now sojourning at Arequipa, Peru, in South America, is her son, and was born in the Commonwealth of Pennsylvania on the 18th day of January, 1842; that she has read the foregoing memorial of Victor Hugo MacCord, addressed to Hon. T. F. Bayard, and that the facts therein set forth are correct and true, as she verily believes, and that her said son, Victor Hugo MacCord, informed this affiant, when at home with her in 1883, that he intended to settle up his business and return home, and that he expected to accomplish that in a couple of years and return to his home in Pennsylvania.

SARAH ANN ALLEN.

Sworn to and subscribed before me, a notary public, September 17, 1888.
[L. S.] WIN. S. ROSE,
*Notary Public.*

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[Inclosure 4 in No. 232.]

*Affidavit of Mrs. Mary Ada Gehr.*

COMMONWEALTH OF PENNSYLVANIA,
*Crawford County, ss:*

Mrs. Mary Ada Gehr, being duly sworn, saith that she is the daughter of Mrs. Sarah Ann Allen, and was born May 27, 1862, at Espyville, in Crawford County, State of Pennsylvania, and that she has read the memorial of her brother Victor Hugo MacCord, and believes that the statements therein contained are correct and true, and concurs with the statements of her mother with reference to the statements made by her brother in 1883, while at home, concerning his return to his home in Pennsylvania so soon as he could settle his affairs in South America.

Mrs. MARY ADA GEHR

Sworn to and subscribed before me, a notary public, September 17, 1888.
[L. S.] WIN. S. ROSE,
*Notary Public.*

# PORTUGAL.

## No. 927.

*Mr. Bayard to Mr. Lewis.*

No. 68.] DEPARTMENT OF STATE,
*Washington, December 7*, 1887.

SIR: I transmit a copy of a letter from F. C. Butman, of Boston, representing that "goods of American manufacture are imported into Portuguese colonies *via* Lisbon at less than the same goods are subjected to [in the way of duties] if sent in American bottoms direct to said colonies;" also a further letter on the subject.

It is desired that you will carefully investigate the subject and report in full, covering the entire ground. The question of indirect importations into the colonies of a country is generally *casus omissus* in treaties. Under Article IV of the treaty of 1840, it is presumed that no discrimination of flag exists in the colonies, and that goods indirectly imported thither, by way of a Portuguese port, in a vessel of the United States, are entitled to a reduction of 30 per cent. of the tariff duties, the same as if imported in Portuguese vessels.

It is stated by Messrs. Butman & Co. that the indirect importations into the colonies from all foreign countries *via* the parent country are treated alike. In this relation it is desirable to know whether the question of discrimination has been raised by any other government and how it has been met by Portugal.

It is possible that the analogy of the coastwise trade, under the reservation of Article VII of the treaty, may be argued. This can only properly apply, it is thought, to importations, which, having been regularly entered and paid duties in a port of the parent country, are thence conveyed in vessels of the country to another port thereof. But re-exportation in bond or with drawback, equal to duties, to another port of the same country is a different thing; and while it might be said that a rebate on foreign imports of the nature herein shown, at the port of final destination, is a discrimination against one home port and in favor of another, still it is evident that the effect is to discourage direct importations and to favor a double voyage with transshipment in a port of the mother country. In the second case the flag under which the voyage after such transshipment is made becomes important.

As will be seen, the subject is intricate and needs to be carefully studied.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 68.]

*Mr. Butman to Mr. Bayard.*

BOSTON, *October* 11, 1887.

SIR: Annexed please find copy of a letter from my agent at St. Vincent, Cape Verde Islands, a native of this State, dated September 10, 1887, which appears to me should receive prompt and active attention of your Department. As I understand, Portuguese products in Portuguese vessels are entitled to the same privileges of entry in our ports as entailed on the same goods if brought in American bottoms. Why this? If, through what to me appears a flimsy or sharp dodge, goods of American manufacture are imported into Portuguese colonies *via* Lisbon at less than the same goods are subjected to if sent in American bottoms direct to such colonies; if the treaty between the United States and Portugal permits of any such impositions, it seems to me the quicker it is stopped the better for the credit and standing of this country.

Again asking for prompt and efficient action in the premises, and an acknowledgment of this communication, I am etc.,

F. C. BUTMAN.

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[Inclosure 2 in No. 68.]

*Mr. Holtz to Mr. Butman.*

ST. VINCENT, *September* 10, 1887.

DEAR SIR: The influence of the United States Government ought to be used to protect goods of American manufacture against the injustice of the present tariff of these islands.

Recent importations of goods of United States manufacture into these islands from Lisbon define the intention of Portuguese merchants to avail extensively of important and unjust exceptions in present tariff in favor of goods from Lisbon brought in Portuguese vessels.

I inclose herewith a copy of the tariff. On page 5, article 1, it says:

"Merchandise imported from foreign ports into this archipelago will pay duty as defined in Table A, page 15." Page 6, article 3: "Merchandise re-exported from Lisbon to this archipelago will pay 70 per cent. of duty as defined in Table A." Table A, page 15, defines duty as follows:

| | | Reis. |
|---|---|---|
| On goods of United States manufacture: | | |
| Denim blue drills, etc | per kilogram | 400 |
| Flour | do | 15 |
| Unbleached cotton | do | 150 |
| Box of manufactured tobacco | do | 200 |
| Sugar | do | 60 |
| Calicoes or prints | do | 500 |

The following table will illustrate the practical workings of the tariff, viz:

| Item. | Reis. | Dollars. | Difference in favor of Lisbon. |
|---|---|---|---|
| One bale denim or blue drills, costing in United States 13 cents per yard, weighs 130 kilograms, at 400 reis (700 yards) | 52,000 | 56.52 | $16.97 per bale. |
| From Lisbon, 70 per cent. of 52,000 reis is | 36,400 | 39.55 | |
| One bale unbleached cotton, 750 yards, costing 7 cents per yard, weighs 115 kilograms, at 150 reis. | 17,250 | 18.74 | $5.62 per bale. |
| From Lisbon, 70 per cent. of 17,250 reis is | 12,075 | 13.12 | |
| One box manufactured tobacco, 120 pounds, costing 17 cents per pound, weighs 55 kilograms, at 200 reis. | 11,000 | 11.96 | $3.63 per 120 pounds. |
| From Lisbon, 70 per cent. of 11,000 reis is | 7,700 | 8.33 | |
| One hogshead leaf tobacco, costing 12 cents per pound, weighs 900 kilograms, at 200 reis. | 180,000 | 195.65 | $58.70 per hogshead. |
| From Lisbon, 70 per cent. of 180,000 reis is | 126,000 | 136.95 | |
| One barrel flour, 196 pounds, 85 kilograms, at 15 reis | 1,275 | 1.39 | 43 cents per barrel. |
| From Lisbon, 70 per cent. is | 892 | .96 | |
| One case kerosene oil, 10 gallons, weight 30 kilograms, at 20 reis. | 600 | .62½ | 17½ cents per case. |
| From Lisbon, 70 per cent | 420 | .45 | |
| One barrel sugar, weighing 100 kilograms, at 60 reis | 6,000 | 6.52 | $1.97 per barrel. |
| From Lisbon, 70 per cent | 4,200 | 4.55 | |
| One bale or case calico prints weighing 100 kilograms, at 500 reis. | 50,000 | 54.35 | $16.31 per bale. |
| From Lisbon, 70 per cent | 35,000 | 38.04 | |

not aimed to injure products of the United States more than other
s, but from the fact that the United States has considerable direct
foreign countries no trade of importance, the tariff applies particu-
pon United States goods.
is often asked, Why do citizens of the United States not avail of the
e-exportation *via* Lisbon for their goods? Why should citizens of the
be forced to send their goods double voyages; pay freight to Lisbon
n here in Portuguese vessels, which are enabled to charge high rates
e monopoly sustained by the tariff, compelling the goods to be brought
essels, instead of employing their own vessels to carry their own prod-
ired to do so?
on between the United States and Portugal by sail or steam vessels is
inadequate to keep merchants regularly supplied.
ants now import goods of United States manufacture because, by efforts
ed in direct trade with the United States to introduce and sell their
re superior in quality to those of European manufacture, a good de-
shed and the poor people prefer them to others. Permit direct trade
l States to be killed by this difference in duty, and soon the Lisbon
abandon importations of United States goods with their impediment
mmunication and higher freights than between Europe and Portugal,
ence to the flimsy textures of European manufacture, on which more
ade, and which are more readily obtainable from Europe owing to
ieaper communication with Portugal.
f the mail will not permit writing more to-day.
very truly, yours,

JOSEPH H. HOLTZ.

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[Inclosure 3 in No. 68.]

*Mr. Butman to Mr. Baycrd.*

BOSTON, *October* 17, 1887.

g to my respects of the 11th instant, yet unacknowledged, I beg to
n my agent, Mr. Joseph H. Holtz, at St. Vincent, Cape Verde Islands,
ject, viz:
nust be done about the difference in duty between direct and indirect
If this difference in duty applied only to goods of Portuguese manu-
ould be some merit in it, but as now it only favors a few exporters
the loss of duties at this archipelago, and it is surprising that the
Lisbon do not see the injury it will do the islands by driving away
ons to give place to those who pay 30 per cent. less duty into the rev-
hipelago.
d to be a new tariff for the islands now under consideration by the
Lisbon, in which duties on domestics and tobacco are considerably
ie preference on United States goods *via* Lisbon is reduced from 30 to
reduction on general duties will lessen the total difference between
rect importations, but what is needed is equal duties for all. It is
there exists any treaty of commerce between the United States and
ancient treaty of 1844, sometimes referred to between islands govern-
ls, says that the United States is to be treated the same as the most
, but as they treat all nations equally unjustly in this duty on goods
mething more definite than the treaty of 1844 is needed, to the effect
States and its commerce will be treated with equal justice that the
rtugal is treated by the United States.
tariff under consideration at Lisbon, it appears a proper time to urge
t to protect goods of its manufacture. There will be a strong opposi-
o reform in this direction, but the case is so clearly for the benefit of
Government as regards revenue, aside from treating our commerce
irs, that good results will follow if our Government uses its influ-

to use too strong language, but I respectfully submit, if the Portu-
nt, while receiving, as I understand they do, the same privileges in our
commerce receives, shall be permitted to destroy United States com-
ls as they are virtually attempting to do and drive us out of the direct
have been doing for years, it does appear to me that the case is one
npt and energetic measures, and that no time should be lost in taking
eps to secure justice and equity.
s respectfully submitted.
lly, etc.,

F. C. BUTMAN.

No. 928.

*Mr. Bayard to Mr. Lewis.*

No. 78.] DEPARTMENT OF STATE,
*Washington, June* 4, 1888.

SIR: Your attention is recalled to my No. 68 of December 7 last concerning the complaint of F. C. Butman, of Boston, alleging discrimination by the Portuguese Government against the direct trade between the United States and the Cape Verde Islands as compared with that passing *via* Lisbon.

The Department desires to receive as soon as possible the report which my No. 68 instructs you to make.

I am, etc.,

T. F. BAYARD.

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No. 929.

*Mr. Lewis to Mr. Bayard.*

HOBOKEN, NEW JERSEY, *July* 7, 1888. (Received July 9.)

SIR: In reply to instructions No. 78, recalling my attention to Department instructions No. 68, December last, concerning the complaint of F. C. Butman, of Boston, alleging discrimination by the Portuguese Government against the direct trade between the United States and the Cape Verde Islands as compared with that passing *via* Lisbon, I have the honor to state that immediately upon the receipt of instructions No. 68 I addressed a communication to Senhor Barros Gomez, minister of foreign affairs, dated the 2d of January, 1888, which I handed to him in person, and to which, up to the time of my departure from my post on June 7 last, I had received no written response. In a conversation I had with the minister just before my departure he informed me that the same discrimination as between Lisbon and the Cape Verde Islands was made with the vessels of the United States and those of other nations trading with the Cape Verde Islands, and that the object of the extra duties and the requirements of the reshipping of cargoes at Lisbon was for the protection and encouragement of the Portuguese coasting trade.

In conversation which I had subsequently with the ministers to Portugal of Great Britain, Germany, and Sweden, all of which countries have a considerable trade with the Cape Verde Islands, they informed me that they had had conversations with Senhor Barros Gomez upon the same subject, and that he had informed them to the same effect, and that for the present no alterations would be made. The Portuguese Government contemplated reducing the duty mentioned by Mr. Butman from 30 to 20 per cent., but up to the time of my departure, June the 7th last, nothing had been done.

I have directed Vice and Deputy Consul-General Wilbor to forward to the State Department a copy of my dispatch to Senhor Barros Gomez upon this subject, dated January 2, 1888, which copy would have been sent long since had I not awaited a reply from Senhor Gomez.

I have, etc.,

E. P. C. LEWIS.

No. 930.

*Mr. Wilbor to Mr. Bayard.*

LEGATION OF THE UNITED STATES,
*Lisbon, July* 12, 1888. (Received July 30.)

SIR: Referring to your No. 68 and No. 78, I have the honor to in-
m the Department that Mr. Lewis was assured in a personal inter-
w had with the minister of foreign affairs that an immediate reply
uld be made by Senhor Barros Gomez to the note then handed him,
ted 2d January last, copy of which is inclosed, numbered 1. Frequent
plications have since been made at the foreign office for the reply
mised, but none was received until the 7th instant; a copy thereof
ed July 7, 1888, is inclosed, numbered 2, and a translation thereof,
mbered 3.

also inclose translation of article 1315 of the commercial code of
rtugal, marked A, and of article 11 of tariff of Mozambique; of
icles 3 and 4 of the treaty of India, 1878; of articles 1 and 2 of decree
October 21, 1880; of decree of August 18, 1881; and finally of article
f decree of April 16, 1885, marked respectively B, C, D, E, and F, all
hese documents being referred to by Senhor Barros Gomez in his note,
none of the originals furnished.

I have, etc.,

J. B. WILBOR.

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[Inclosure 1.]

*Mr. Lewis to Senhor Barros Gomez.*

LEGATION OF THE UNITED STATES,
*Lisbon, January* 2, 1888.

OUR EXCELLENCY: I am instructed by the State Department to call the atten-
of His Majesty's Government to the following facts, viz: Mr. F. C. Butman, a
chant of Boston, Massachusetts, writes to the Secretary of State that his agent in
Cape Verde Islands informs him that "recent importations of goods of United
tes manufacture into these islands from Lisbon define the intention of Portuguese
chants to avail extensively of important and unjust exceptions in present tariff in
or of goods from Lisbon brought in Portuguese vessels." He incloses a copy of the
iff, which on page 5, article 1, says, "merchandise imported from foreign ports into
archipelago will pay duty as defined in Table A, page 15." Page 6, article 3:
erchandise re-exported from Lisbon to this archipelago will pay 70 per cent. of
y as defined in Table A." Table A, page 15, defines duty as follows: On goods of
ited States manufacture, Denim blue drills, etc., 400 reis per kilogram; flour, 15
per kilogram; unbleached cotton, 150 reis per kilogram; box of manufactured
acco, 200 reis per kilogram; sugar, 60 reis per kilogram; calicoes or prints, 500 reis
kilo gram, etc. Coming direct from Lisbon in Portuguese vessels the duty is 30 per
t. less than coming direct from the United States.

s the United States has considerable direct trade to these islands, more than any
er foreign country, the tariff applies particularly severely upon United States goods.
question is often asked, why do citizens of the United States not avail themselves
he advantage of re-exportation *via* Lisbon for their goods? Why should citizens of
United States be forced to send their goods double voyages—pay freight to Lisbon
from Lisbon here in Portuguese vessels, who are enabled to charge high rates of
ght by the monopoly sustained by the tariff compelling the goods to be brought in
tuguese vessels, instead of employing their own vessels to carry their own produce
en prepared to do so? As I understand Portuguese products in Portuguese vessels
entitled to the same privileges of entry in our ports as entailed on the same goods if
ught in American bottoms. As the matter now stands American manufactures are
orted into Portuguese colonies *via* Lisbon at less than the same goods are subjected
f sent in American bottoms direct to such colonies; this is calculated to injure the
le with the colonies if not to stop it altogether. I beg leave to call your excel
cy's attention to this latter fact, that it may cause the driving away of all direct

importations from the colonies to give place to those who pay 30 per cent. less duty into the revenue of the archipelago. Does it not strike your excellency that American goods exported in American bottoms should receive the same treatment in Portugal and its colonies that Portuguese goods in Portuguese bottoms do in America? The question of indirect importations into the colonies of a country is generally *casus omissus* in treaties. Under Article IV of the treaty of 1840 it is presumed that no discrimination of flag exists in the colonies and that goods indirectly imported thither by way of a Portuguese port, in a vessel of the United States, are entitled to a reduction of 30 per cent. of the tariff duties, the same as if imported in Portuguese vessels.

It is possible that the analogy of the coastwise trade, under the reservation of Article VII of the treaty, may be argued. This can only properly apply, it is thought, to importations which, having been regularly entered and paid duties in a port of the parent country, are thence conveyed in vessels of the country to another port thereof. But re-exportation in bond or with drawback equal to duties to another port of the same country is a different thing; and while it might be said that a rebate on foreign imports of the nature herein shown, at the port of final destination, is a discrimination against one home port and in favor of another, still it is evident that the effect is to discourage direct importations, and to favor a double voyage with transshipment in a port of the mother country. In the second case, the flag under which the voyage after such transshipment is made, becomes important. It is stated by Messrs. Butman & Co. that the indirect importations into the colonies from all foreign countries *via* the parent country are treated alike, and in this respect I would ask your excellency whether the question of discrimination has been raised by any other Government, and, if so, how it has been met by His Majesty's Government.

I avail, etc.,

E. P. C. LEWIS.

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[Inclosure 2.—Translation.]

*Senhor Barros Gomez to Mr. Wilbor.*

MINISTRY OF FOREIGN AFFAIRS, *Lisbon, July* 7, 1888.

YOUR EXCELLENCY: I have before me the note which Mr. Lewis did me the honor to write me on January 2 ultimo, showing various reflections upon the inconveniences which result to the direct commerce between Cape Verde and the United States from the differential duty of 30 per cent. in favor of merchandise into the archipelago through the metropolis.

The inconveniences pointed out in that note, and which are common to all foreign countries which trade with Cape Verde, may be considered as theoretical rather than as a real obstacle to direct importations, and can not in any case be actually removed for the reasons which I will proceed to present to your excellency.

The commerce of the metropolis with the province of Cape Verde, and with the other provinces of Western Africa, is as yet of *cabotage* (domestic coastwise trade) only, reserved for the Portuguese flag, in virtue of article 1315 of our commercial code. This reservation was considered in article 7 of the treaty of commerce of the 26th of August, 1840, between Portugal and the United States, ratified February 8, 1841.

The complaint of the merchants, being made against the *differential* duty and not against the *principle*, does not appear well founded, because the arrival of American products at Lisbon, their transshipment to Portuguese vessels, the freight thereon to Cape Verde, and the inevitable delays represent, as regards some flags, charges greater than 30 per cent., by which re-exportation the commerce of the metropolis is benefited. No other nation having objected to the reservation of *cabotage*, there has been heretofore no consideration of this subject.

His Majesty's Government has latterly been abandoning gradually the reserve of *cabotage* to the national flag. The measures adopted since 1877 are to be found in article 11 of the custom-house tariff of the province of Mozambique, decreed on 30th July of that year, in the treaty of India, December 26, 1878, in the decrees with the force of law dated 21st October, 1880, the 18th August, 1881, and finally, in the law of 16th April, 1885.

I avail, etc.,

BARROS GOMEZ.

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[Inclosure 3.—Translation.]

*Tariff, province of Mozambique, July* 30, 1877.—*Eleventh article, section III.*

Commerce of importation, exportation, and *cabotage*, article 11. Are declared open to national and foreign commerce, the ports of Cabo Delgado, Mozambique, Angoche, Quilimane, Inhambane, and Lourenco Marques, in which will be established custom-

houses of deposit. *Cabotage* being allowed both for national and foreign vessels between the same ports to transport merchandise subject to duties, to be paid in the custom-house in which it is definitely cleared.

The transportation of merchandise between the ports named for the effects of this article is exempt from duty and bond, and bound only to have a lawful permit in the terms of article 69.

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[Inclosure 4.—Translation.]

*Extract from Commercial Code of Portugal.*

1315. The commerce between the ports of Portugal, the islands and Portuguese dominions in any part of the world, can only be made in Portuguese vessels, either by exportation or importation, and reciprocally.

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[Inclosure 5.]

*Articles* 3 *and* 4 *of the Treaty of India*, 1879.

ART. 3. The ports, harbors, roadsteads, basins, creeks, and rivers in the Indian dominions of each of the high contracting parties shall be open to the commerce and navigation of the subjects of the other on the same conditions as those on which they are open to the subjects of the party in whose dominions they are.

The coasting and carrying trade between one port and another in the Indian dominions of each of the high contracting parties shall be open to the vessels of the other without any restriction, except such as is or may be imposed upon national vessels.

No vessel of one of the high contracting parties shall be subjected by the other to any harbor or navigation dues of any description whatsoever, or to any regulations for stationing, loading, unloading, or otherwise, to which national vessels are not equally subject, or shall be denied any privilege which is accorded to such vessel.

The high contracting parties reserve to themselves, respectively, the right of retaining, increasing, modifying, and abolishing the dues and charges on navigation in their respective Indian dominions, and of establishing new dues and charges of a like nature.

ART. 4. The privileges and engagements comprised in articles 1, 2, and 3 of this treaty shall extend to native states, which, by treaty with Her Britannic Majesty or otherwise, may be entitled to be placed, in the matters referred to therein respectively, on the same footing as British India.

The governor-general of British India will, from time to time, communicate to the governor-general of Portuguese India a list of such native states.

August 6, 1879.

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[Inclosure 6.—Translation.]

*Articles* 1 *and* 2 *of decree of October* 21, 1880.

ART. 1. The impost of damage is established in the ultramarine Portuguese provinces, collected from national and foreign navigation of long voyage or *cabotage*, in the form prescribed in the following article.

ART. 2. National or foreign sailing or steam vessels which go into the ultramarine Portuguese ports are subject to the tonnage tax fixed in the annexed table.

October 21, 1880.

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[Inclosure 7.—Translation.]

*Decree of July* 18, 1885.

SIR: Article 1315 of the commercial code decreed September, 1833, reserved to the Portuguese flag the commerce of importation and exportation between the ports of the continent of the Kingdom, adjacent islands, and Portuguese dominions of any part of the world.

The decree of July 30, 1877, acknowledging that the privilege granted of *cabotage* is the last of monopolies which everywhere is giving way to open trade, opened to commerce the ports of Cabo Delgado, Mozambique, Angoche, Quilimane, Sofala, Inhambane, and Lourenco Marques, permitting *cabotage* between those ports both by national and foreign vessels.

Navigation of *cabotage* will only continue privileged within the limits of Cape Verde and Angola.

August 18, 1881.

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[Inclosure 8.—Translation.]

*Article* 1 *of decree of April* 16, 1885.

ART. 1. Foreign vessels are allowed the commerce of *cabotage* between the ultramarine Portuguese provinces east of Cape of Good Hope; that is, Mozambique, India, Macao, and Timor, and the Portuguese ports of the European continent and adjacent islands. Article 1315 of the commercial code being hereby altered, the rules established or to be established for the national flag, are applied to said foreign vessels.

The commerce of *cabotage* in the ports of the metropolis and adjacent islands, between them and with Portuguese ports of west Africa, continue reserved to the national flag in the terms of legislation in force.

April 16, 1885.

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## CORRESPONDENCE WITH THE LEGATION OF PORTUGAL AT WASHINGTON.

### No. 931.

*Viscount das Nogueiras to Mr. Bayard.*

[Translation.]

NEW YORK, *September* 22, 1887. (Received September 23.)

Mr. SECRETARY OF STATE: In order to reply to a question from my Government I have to beg you, Mr. Secretary of State, to be kind enough to give me the following information:

First. Is there any system of favor and exception with regard to the transmission free of duty of provisions sent by their respective countries to foreign war vessels stationed in the ports of the United States?

Second. In case this is so, is this system of favor regulated officially, or only allowed through custom?

Thanking you in advance, Mr. Secretary of State, I beg you, etc.,

VISCOUNT DAS NOGUEIRAS.

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### No. 932.

*Mr. Bayard to Viscount das Nogueiras.*

DEPARTMENT OF STATE,
*Washington, October* 21, 1887.

VISCOUNT: I have the honor to acknowledge the receipt of your note of the 22d ultimo, and to say in reply that as I am informed by the Secretary of the Treasury "the practice in exempting from duty supplies,

etc., for foreign vessels of war, is governed by section 2982 of the Revised Statutes, and the privilege is only extended to the vessels of war of such nations as reciprocate towards vessels of war of the United States while in the ports of such nations." I inclose a copy of the statutory provision.

Accept, Viscount, etc.,

T. F. BAYARD.

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No. 933.

*Viscount das Nogueiras to Mr. Bayard.*

[Translation.]

LEGATION OF PORTUGAL,
*Washington, January* 10, 1888. (Received January 10.)

Mr. SECRETARY OF STATE: When in 1885 the Government of his most faithful majesty assumed the protectorate of the coast of Dahomey, its object was to strengthen European influence in that region of of Africa, to put an end to human sacrifices, and to employ ransomed prisoners of war in the agricultural works of the province of "St. Thomé e Principé."

The realization of such an object could only be assured by the full and entire execution of the treaty of the 5th August, 1885, made between Portugal and Dahomey. The sovereign of that state, however, has raised doubts on many of the most important clauses of this convention, and by diminishing their importance and in contesting their validity he has succeeded in withdrawing himself from the accomplishment of the duties which resulted from that international agreement.

By direct investigations recently made, the Government of his majesty is convinced that the annual redemption of a hundred prisoners of war, made under very hard terms and rendered more difficult by obstacles raised by the King of Dahomey, did not at all diminish the continuation of human sacrifices.

The clauses of the treaty relative to the cession of territory were, besides, the object on the part of Dahomey of frequent disputes, and his majesty's Government has practically recognized that the sovereign of that country could not or would not carry out the terms of the treaty in virtue of which the Portuguese protectorate was established.

Under these circumstances his most faithful majesty's Government, not wishing to employ force to insure full compliance with the treaty, and still less to share the responsibility of events which will continue to take place in Dahomey, has felt itself obliged to renounce the protectorate of this country, and has charged me to inform the Government of the United States of that decision, as likewise of its renunciation of the rights which it had acquired, and that it had exercised on the coast of Dahomey; which at the same time relieves it from all the responsibilities which might result from the exercise of the protectorate.

While having the honor of making this communication to you I beg you, Mr. Secretary, etc.,

VISCOUNT DAS NOGUEIRAS.

No. 934.

*Mr. Bayard to Viscount das Nogueiras.*

DEPARTMENT OF STATE,
*Washington, January* 18, 1888.

VISCOUNT: I have the honor to acknowledge the receipt of your note of the 10th instant, by which in obedience to instructions you communicate information that the Government of his Majesty the King of Portugal, having become satisfied that the obstacles placed by the King of Dahomey in the way of proper execution of the treaty of 1885 between Portugal and Dahomey, by which Portugal assumed the protectorate of the coast of Dahomey, warrant decisive action on its part, and not wishing to employ force, and still less to share the responsibility of the human sacrifices which continue there in defiance of the treaty, has felt obliged to renounce the protectorate and the rights thereto appertaining, a decision which relieves it from the responsibilities resulting from the exercise of the protectorate.

Accept, Viscount, etc.,

T. F. BAYARD.

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No. 935.

*Baron d'Almeirim to Mr. Bayard.*

[Translation.]

LEGATION OF PORTUGAL IN THE UNITED STATES,
*New York, March* 23, 1888. (Received March 24.)

Mr. SECRETARY OF STATE: My Government desires to cause the International Convention for the Protection of Industrial Property which was signed at Paris November 20, 1880, to be executed with the strictest reciprocity, and has therefore instructed me, in view of the reservations made in the name of this Republic by its representative, to procure for it a complete collection of the laws of the different States of the American Union relative to trade-marks, together with a copy of the act of March 3, 1881, concerning the ownership of foreign marks and of those used by American citizens in their trade with other nations.

My Government likewise desires to be informed whether the provisions of articles 3 to 12 of the convention and those of Nos. 1 to 4 of the final protocol are fully executed in this Republic; also, whether the same usage is accorded, without reserve, to the subjects of foreign powers as to American citizens.

That I may be enabled to obey the instructions of my Government I have recourse to your excellency's extreme kindness, begging you to be pleased to furnish the desired laws and information.

I avail, etc.,

BARON D'ALMEIRIM,
*Consul and Chargé d'Affaires of Portugal.*

No. 936.

*Baron d'Almeirim to Mr. Bayard.*

[Translation.]

LEGATION OF PORTUGAL IN THE UNITED STATES,
*New York, May* 14, 1888. (Received May 15.)

Mr. SECRETARY OF STATE: The fact has come to the knowledge of my Government that a Portuguese criminal, whose real name is Maria da Luz Baptista, is now living in Boston, Massachusetts, under the name of Mrs. Botelho. This person was sentenced to banishment to Africa for life for the crime of poisoning her husband; she made her escape, however, some time since from the prison in St. Michael, Azores. My Government has consequently instructed me to apply to you for her extradition. So far as I am aware, there is no extradition treaty between my country and yours upon which I can base my application; yet the measures recently adopted by the American authorities to exclude from the territory of the Republic the swarms of criminals who arrive daily from all quarters of the globe, and the numerous instances in which extradition has lately been granted by the United States Government to other powers, lead me to hope that you will be pleased to grant the request which I hereby address to you.

I therefore trust, Mr. Secretary of State, that you will issue orders for the immediate arrest of this convict, to the end that she may be surrendered to the authorities of her native land, and be made to suffer the penalty to which she has been sentenced. I trust that you will do this not only out of regard to the principle of reciprocity, since my Government has always readily acceded to all requests of this kind made by the United States Government, but also because it is so highly important to all countries that such horrible crimes should not remain unpunished.

The so-called Mrs. Botelho now resides at No. 18 Sidney street, East Cambridge, Boston, Massachusetts.

I avail, etc.,

BARON D'ALMEIRIM,
*Consul in Charge of the Legation.*

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No. 937.

*Mr. Bayard to Baron d'Almeirim.*

DEPARTMENT OF STATE,
*Washington, May* 17, 1888.

SIR: A copy of your note of March 23 last, asking the construction placed by the Government upon certain articles of the convention for the protection of industrial property, was transmitted to the Department of the Interior and I have now the honor to inclose a copy of a letter from the Secretary of that Department, covering a report made to the Commissioner of Patents on the points stated in your notes and a copy of each of the pamphlets referred to in said report.

Accept, etc.,

T. F. BAYARD.

[Inclosure 1.]

*Mr. Vilas to Mr. Bayard.*

DEPARTMENT OF THE INTERIOR,
*Washington*, May 14, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 30th of March last, inclosing copy of a communication from Baron d'Almeirim, in charge of the legation of Portugal at this capital, requesting information as to the laws of the different States of the Union relating to trade-marks, and also desiring to be informed whether certain articles of the international convention for the protection of industrial property are fully executed in this country and the same protection for inventions accorded by the United States to the subjects of foreign powers as to its own citizens.

In response I transmit herewith a report, prepared by Mr. F. A. Seely, the examiner of trade-marks of the Patent Office, in answer to the inquiries of Baron d'Almeirim, which has been received from the Commissioner of Patents with an expression of his approval of the views expressed therein; and also the publications referred to in the report of Examiner Seely.

Very respectfully,

WM. F. VILAS.

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[Inclosure 2.]

*Mr. Seely to Mr. Hall.*

UNITED STATES PATENT OFFICE,
*Washington, May* 8, 1888.

SIR: I have the honor to return herewith the letter, dated March 23, 1888, addressed by Baron d'Almeirim, consul and chargé d'affaires of the Kingdom of Portugal, to the Secretary of State, and through the Secretary of the Interior referred to you to answer the inquiries it contains.

After stating the purpose of his Government to execute with the strictest reciprocity the international convention for the protection of industrial property (proclaimed by the President June 11, 1887), Baron d'Almeirim, on behalf of his Government, and in view of the reservations made by the representative of this country at the signing of the convention, asks for "a complete collection of the laws of the different States of the American Union relative to trade-marks," together with a copy of the act of Congress of March 3, 1881.

I have the honor to state that no complete collection of the laws of the States of this Union regarding trade-marks is known to exist, and therefore it will be impossible to comply with the above request in this particular. It should, however, be remarked that, under the Constitution and laws of the United States, aliens are entitled everywhere within the territory thereof to the protection of the Federal courts. Subjects of the Kingdom of Portugal who desire to protect their trade-marks in this country now have the privilege of registration upon showing that their trade-marks are in actual use in commerce between the United States and Portugal or any other country foreign to the United States, and, in addition to their rights under the Constitution, may, by virtue of such registration, bring action to defend their trade-mark property in the United States courts. It is thought that the desire to be informed upon the laws of the several States of the Union is based upon a misapprehension which this statement is intended to remove. The peculiar conditions of the Federal trade-mark law in 1880, when the convention was agreed upon, have passed away, and the reservation then included in it is practically obsolete.

Baron d'Almeirim asks further "whether the provisions of Articles III to XII of the convention, and those of Articles I to IV of the final protocol, are fully executed in this Republic; also whether the same usage is accorded without reserve to the subjects of foreign powers as to American citizens."

With respect to patents, the United States statute recognizes no difference between an American citizen and the subject of a foreign power. "Any person" who has made a new and useful invention is entitled to have a patent for it granted to him upon payment of the legal fees and compliance with the requirements of law, without question as to his nativity, residence, or allegiance. This is not a matter of rights under treaties, but is the statute law of the United States. With respect to trade-marks the right to register is accorded, on the same footing as to citizens, to all subjects of foreign powers which by treaty, convention, or law afford the same privilege to citizens of the United States. This grants the privilege of registration to sub-

jects of all powers with which special connections exist for the reciprocal protection of trade-marks, and to the subjects and citizens of all States, members of the International Union. These enjoy all rights American citizens are entitled to by virtue of registration. At the same time the fact should not be overlooked that, without respect to registration, and long before any provision for registration of trade-marks was made by statute, aliens received in this country from its courts exactly the same protection as citizens. It appears, therefore, that what Articles II and III of the international convention propose to secure reciprocally to the subjects or citizens of the contracting states is already fully secured to all persons of whatever nationality in this country by virtue of the Constitution and laws of the United States.

It is not easy to give an answer to the more specific part of the second inquiry, that relating to the execution of the provisions of the articles named, since it is not known that any cases have arisen calling for their execution. What has been said above, however, sufficiently indicates the disposition of the United States in this regard. Article IV is interpreted in accordance with the spirit of American patent law that a patent is to be granted only to the first inventor; and the right of priority accorded by this article is held to constitute only a right of priority in filing the application, with whatever advantages may accrue therefrom, and not by any means a right to the patent. That is the right which belongs only to him who by the established tribunals is determined to be the first inventor. It has been agreed in the United States Patent Office that any person filing an application for a patent under the convention and within the seven months period prescribed in Article IV should have his application treated as if presented on the day on which his application was filed in the country of origin.

The requirement of Article VI is so far complied with that in one or two cases of applications from abroad for registration of trade-marks to which objection has been made in the office the applicant has been informed that the objections would be withdrawn on a proper showing that the same trade-mark had been registered and protected in his own country. As yet, however, no satisfactory evidence of such character has been produced in any case.

It is thought that some action of Congress is necessary to carry into full effect the provisions of Articles IX and X, specifying by law the proper officers to institute proceedings and the due procedure to be had. Meanwhile there is no doubt that means will be found to defend the rights of alien owners of trade-marks unlawfully or fraudulently simulated, should occasion arise to demand the interposition of the courts. A bill amending the trade-mark law so as to provide regularly for the seizures required under these articles has been presented to Congress and now awaits its action.

There is no difficulty in this country regarding the other articles of the convention or of the final protocol, except the possibility of occasional embarrassment resulting from the obligation to register any trade-mark which is already registered and protected in the country of the applicant. It sometimes happens that public sentiment in one country will recognize as a legitimate trade-mark a device which in another either public sentiment or law would refuse to recognize. Public sentiment in the United States revolts at the use as trade-marks of symbols regarded sacred by any large faction of the people, while in many countries the sacred character of such symbols does not constitute an objection to their protection as trade-marks. On the other hand, a large number of public armorial bearings known in Europe are little known in this country, and when presented as trade-marks here are liable to be registered, thus imposing upon other countries under the treaty an obligation to protect them also. It is easy to see that difficulties may arise in the full enforcement of the first clause of Article VI and of Article IV of the final protocol, but an amendment to the trade-mark law intended to relieve any such difficulties has been presented for the consideration of Congress.

These difficulties, of probably rare occurrence, are referred to only to show that those immediately concerned with the execution of the provisions of the international convention have endeavored to anticipate and provide against them. Every effort will be made to carry out the provisions of the convention to the fullest extent in good faith, and it may be safely asserted that there is no privilege enjoyed under the laws of the United States by its citizens that are not secured to the citizens and subjects of all the contracting states.

A pamphlet containing the trade-mark laws of the United States and the Patent Office rules relating thereto is inclosed herewith. For a fuller understanding of some parts of this letter attention is respectfully invited to the Annual Report of the Commissioner of Patents, pages 9 and 16, and to a brief "History of the International Union," prepared in the Patent Office and printed for the information of the American public. In both of these the international convention is discussed from its American aspect, and they may assist Baron d'Almeirim in preparing a more complete report to his Government.

I have, etc.,

F. A. SEELY.

No. 938.

*Mr. Bayard to Baron d'Almeirim.*

DEPARTMENT OF STATE,
*Washington, June 4, 1888.*

SIR: I have the honor to acknowledge the receipt of your esteemed note of the 14th ultimo, in which you apply, under instructions from your Government, for the extradition from the United States of Maria da Luz Baptista, now living in Boston, Massachusetts, under the name of Mrs. Botelho, who was sentenced in Portugal to banishment to Africa for life for the crime of poisoning her husband, and who made her escape some time ago from the prison in St. Michael, Azores, to this country.

There being, as you are aware, no extradition treaty between the United States and Portugal, your application is based on the principles of reciprocity and comity, which are invoked as peculiarly persuasive in respect to the case now presented.

Your application has been carefully considered, and I regret to inform you that, desirous as I am of acceding to the wishes of the Government you so worthily represent, I do not feel authorized to take the step you suggest.

By reason of a long and, with a single exception (it is believed), uniform course of executive decision and action, it has come to be accepted as a rule of executive conduct that under the laws of the United States the President is not authorized, in the absence of treaty stipulation, to surrender a fugitive criminal to a foreign government. Acting upon this principle, it has become my duty on several recent occasions to decline to comply with requests similar to that which is now preferred, although in some of the cases, as in that now under consideration, the government from which the request emanated appealed to the principle of reciprocity as well as that of comity.

In respect to the act of Congress to which you advert, and which directs the repulsion from our shores of criminals and certain other classes of persons, I have the honor to observe that that measure has not been construed as a law to warrant the surrender by the President of fugitive criminals on the request of a foreign government, or, in other words, as a general extradition act, but has been confined in its interpretation and execution to the limits and methods of expulsion which it expressly provides.

Accept, etc., T. F. BAYARD.

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No. 939.

*Baron d'Almeirim to Mr. Bayard.*

[Translation.]

LEGATION OF PORTUGAL IN THE UNITED STATES,
*Washington, June 30, 1888.* (Received July 2.)

Mr. SECRETARY OF STATE: Under the instruction of my Government, I have to inform you that His Majesty the King of Portugal has declared a blockade, beginning on the 12th instant, of the port of Quissembo, on the west coast of Africa, north of the Ambriz.

While having the honor to make this communication to you, I beg you, Mr. Secretary of State, to accept, etc.,

BARON D'ALMEIRIM,
*Consul in Charge of the Business of the Legation of Portugal.*

No. 940.

*Mr. Bayard to Baron d'Almeirim.*

DEPARTMENT OF STATE,
*Washington, July* 3, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, in which you inform me that your Government has declared a blockade, commencing June 12 last, of the port of Quissembo, on the west coast of Africa, north of the Ambriz.

Accept, etc.,

T. F. BAYARD.

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No. 941.

*Baron d'Almeirim to Mr. Bayard.*

[Translation.]

LEGATION OF PORTUGAL IN THE UNITED STATES,
*New York, August* 7, 1888. (Received August 8.)

Mr. SECRETARY OF STATE: My Government has just instructed me to inform you that the tribes of Quissembo have submitted to the authority of the Government of Portugal, and that the original ground for the blockade having been removed, the blockade itself has therefore been raised, and the port is again opened to the commerce of all the powers.

I avail, etc.,

BARON D'ALMEIRIM,
*Consul in Charge of the Business of the Legation of Portugal.*

# ROUMANIA.

## No. 942.

*Mr. Fearn to Mr. Bayard.*

No. 14.] LEGATION OF THE UNITED STATES,
*Bucharest, October* 4, 1888. (Received November 5.)

SIR: The military maneuvers of the Roumanian army which have been going on for several days ended yesterday at Ploesti. By special invitation of King Charles, who like most of the Hohenzollerns is a thorough soldier, I accompanied him on horseback and witnessed the very creditable evolutions of some 15,000 troops of all arms. Some of the veterans of Plevna, the anniversary of which battle was celebrated last month with much solemnity, were present, but most of the men were young peasants, who may return to their more peaceful avocations at no distant day, it is to be hoped, with improved habits of order and self-command.

I have, etc.,

WALKER FEARN.

# RUSSIA.

## No. 943.

*Mr. Lothrop to Mr. Bayard.*

No. 145.] LEGATION OF THE UNITED STATES,
*St. Petersburg, October* 6, 1887. (Received October 24.)

SIR: Notwithstanding the very full information which has been furnished you by our consuls touching the production of Russian petroleum, and the trade in the same, I have thought that a recent article published in the Journal de St. Pétersbourg would be interesting, as presenting the latest Russian view on the subject. It will be seen that the entire expulsion of American petroleum from the European markets is confidently looked for. And whatever superiority in quality may exist in favor of the American product, yet the ease and abundance of production of the Russian wells and the cheapness at which their product can be placed on the market can not but cause some solicitude respecting the future of a business which has hitherto been so valuable to the producers in the United States. The article and a translation are annexed.

I am, etc.,

GEO. V. N. LOTHROP.

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[Inclosure in No. 145.—Extract from the Journal de St. Pétersbourg of September 14 (26), 1887—Translation.]

*Petroleum production of Russia.*

The "Parole de Kieff" draws attention to the constant progress of the naphtha industry in the Caucasus and Transcaucasus. The importance of this industry is already considerable, and there is every reason to believe that it will end by driving American petroleum from the European markets. A pamphlet of Mr. Charles Marvin has just appeared in London, entitled "The Approaching Deluge of Russian Petroleum." This writing and the report of the consul of the United States at Bakou furnish our contemporary with the information for the following considerations: In the district of Bakou the production of refined petroleum in 1883 was about 60,000,000 of gallons (the gallon is equal to nearly a third of a vedro); this proportion in 1884 had amounted to nearly 100,000,000 of gallons, and the year following to nearly 132,000,000. This branch of the industry has more than doubled, therefore, in three years. On the other hand, a notable diminution in the importation of American petroleum has been observed in Europe.

The following table shows the variations of this importation during those three years, in the countries there named.

[In millions of gallons.]

| Countries. | 1883. | 1884. | 1885. |
|---|---|---|---|
| Austria-Hungary | 15.5 | 6.3 | 2.0 |
| Greece | 1.3 | 1.1 | 0.3 |
| Turkey in Europe | 4.2 | 3.6 | 2.0 |
| Turkey in Asia | 3.1 | 3.5 | 2.1 |
| Gibraltar and Malta | 2.7 | 3.3 | 1.0 |

In short, an importation reduced to one-quarter; from 26,800,000 gallons to 6,700,000. and that in three years alone; and let it not be forgotten that the naphtha industry in Russia is developing without check, putting itself in unison with the requirements of our consumers of the west, whilst in America many wells have become exhausted. In Pennsylvania, for instance, in order to obtain naphtha, it is necessary to bore into the earth to the depth of 2,000 feet, whereas at Bakou the deepest wells are only 700 feet; and besides Bakou we have abundant springs of naphtha on the shores of the Black Sea, in the environs of Anapa and of Novorossiisk. They are to be worked by a French company, disposing, it is said, of a capital of 15,000,000 of rubles.

Let us now see what has been the development of the production of Russian naphtha. In 1872 only 750,000 gallons had been extracted; in 1876, 3,500,000 gallons. Until 1873 the production of naphtha formed a state monopoly. The contractor, Mirzoïew, while making an immense fortune, did little towards giving an impulse to this industry. The abolition of the tax changed the stagnation into feverish activity, especially since the arrival at Bakou of the Nobel Brothers, Finlandish engineers, to-day called the naphtha kings.

The 1st of September, 1877, the tax on naphtha was abolished. The free extraction of this product has given rise to many abuses. Has not one often heard of the discovery of gigantic fountains of naphtha which, from the lack of resources to dam it and preserve it, was lost in the sand or in the Caspian Sea? On the other hand the natural naphtha of Bakou gives only 30 per cent. of petroleum, 70 per cent. of the natural matter having to be employed in the manufacture of paraffine, of aniline colors, and of different kinds of oils. Well, scarcely any profit is derived from it. Only the refuse, the mazout, as it is called locally, is used as a combustible of an inferior quality.

Here are some more figures which characterize the extent of our riches in mineral oils. The firm of Nobel Brothers own thirty-two wells which work permanently and furnish from 150,000 to 500,000 hectoliters daily. It owns also the best organized and largest petroleum refinery in Russia, thirteen maritime constructions especially arranged for the transport of petroleum, as also a great number of cistern-wagons to be met with on all our railways. There are in all at Bakou 200 workshops for the production of refined petroleum; the daily production is 1,200,000 gallons.

Of all the quantity produced 35,000,000 gallons were exported abroad. The ways of exportation were by Batoum on the Black Sea, Riga, Libau, and Wierzbolowo for Germany; Warsaw, Radzivilow, and Volotchisk for Austria-Hungary.

One can judge of the development of which the exportation of our petroleum is susceptible by the following facts, related by Mr. Marvin, three years ago. A well discovered at Bakou was much talked of, from which 3,400 tons of naphtha daily spurted up; a quantity larger than the whole of the production of the 25,000 wells of North America. At first these rumors were received with much want of confidence, but it was found that really the spring was still more abundant than had been said. In fact, in 1886, the said well produced daily up to 11,000 tons of naphtha, by which the production of one locality was larger than that of the whole world, America, Galicia, Roumania, etc. On October 6, 1886, the manufacturer Taguïew had discovered a spring which threw up to a height of 224 feet, hurling stones and sand 3 versts around, even reaching the town of Bakou; 30,000 pounds of naptha were emitted from it every hour, to the point when it became necessary to put out all the fires of the factories of the "black city" in order to prevent terrible conflagations.

In the presence of this richness of the wells and of their relative proximity to the markets of Europe and of Asia, one can understand that Mr. Marvin speaks of the deluge with which Russian petroleum threatens Europe, definitively ruining the naphtha trade of North America, which henceforth will only have to supply the local demand.

The consul of the United States at Bakou sees things differently. He recognizes the loss to America of the markets of Austria, of southern Europe, of a part of Germany, even of Asia, but he hopes to keep those of France, England, and of the other part of Germany.

No. 944.

*Mr. Lothrop to Mr. Bayard.*

[Extract.]

No. 149.] LEGATION OF THE UNITED STATES,
*St. Petersburg, November* 29, 1887. (Received December 19.)

SIR: It seems proper that I should report the final result of the case of Adolph Lipszyc.*

It will be remembered that he went from Russia to the United States about thirty years ago, became naturalized, served in the Federal Armies through the war of the rebellion, had his right arm disabled by a wound in action, and became a pensioner. His father having died, leaving some property, Lipszyc returned to Russia about two years ago to secure his share of the inheritance, which, it seems, his brothers and sisters were not willing to accord to him. He says that a brother-in-law instigated his arrest. Be this as it may, he was arrested, charged with having left Russia and assumed foreign allegiance without leave of the Emperor. He was imprisoned and his passport and pension certificate taken from him.

As soon as the arrest was known by me, I asserted his American citizenship, remonstrated against his arrest and the seizure of his papers, and claimed his release. Considerable correspondence with the foreign office followed, but the Russian Government, as in other cases, steadily refused to recognize his American citizenship or to grant any relief, except to liberate him on moderate bail.

I learned last evening through our consul at Warsaw that Lipszyc has now been tried and found guilty and sentenced to be sent out of the Empire. Though it is not mentioned by the consul, I presume that as usual the deprivation of civic rights is a part of the sentence. If so, this probably works a forfeiture of his interest in his father's estate. Lipszyc himself was not permitted to write or telegraph to me after his trial.

It is true that this sentence is the mildest that could be inflicted. He is permitted to return to his adopted country, but he returns probably despoiled of his inheritance.

I remain, etc.,

GEO. V. N. LOTHROP.

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No. 945.

*Mr. Lothrop to Mr. Bayard.*

[Extract.]

No. 150.] LEGATION OF THE UNITED STATES,
*St. Petersburg, November* 29, 1887. (Received December 19.)

SIR: As I have in a previous dispatch had the honor to make known to you, the laws of Russia prohibit foreign-born Jews, with some unimportant exceptions, from coming into Russia, or becoming domiciled therein.

During this year the law has been very vigorously enforced against all new-comers, and it now seems to be a fixed policy to drive out all

* See For. Rels., 1887, pp. 943, 948, 956, 958, and 965.

who have hitherto become domiciled in the Empire. The newspapers mention the expulsion of large bodies in southern Russia, where they principally live. I have been appealed to by several naturalized American citizens, who have been notified that they must leave the Empire by the end of the year.

I have replied to all such applications that while I should always be glad to render them any proper assistance, this was a matter wholly within the domain of Russian law, so long as foreign Jews of all nationalities were treated alike, and no discrimination made against American citizens.

The ministers of finance, of the interior, and of foreign affairs have power on petition to grant permission to remain here in special cases.

Mr. D. Waldenberg, a naturalized American citizen, but a Jew of foreign birth, long settled at Plock and doing business there, was some months ago notified that he must leave the country by the end of the year. He was so well esteemed by his neighbors that they generally petitioned for the grant of a special permission in his favor. I thought the case was one in which I could properly join in the application, and did so. No reply has been made.

I have a warm sympathy for these people whose homes and business are thus relentlessly broken up; but my concern would be even deeper if they were only temporarily living here, engaged in promoting business and commerce with their adopted country. But I regret to say that in nearly every case, and perhaps in every case, brought to my attention, they seem to be permanently settled in Russia and engaged in its domestic business.

As many of these persons, if expelled, will be likely to find their way back to America, where their hardships may attract attention, it has seemed to me proper to set out the precise facts of the case, and to show that the unfortunate condition of this class of our fellow-citizens has not been regarded here with indifference.

I am, etc.,

GEO. V. N. LOTHROP.

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No. 946.

*Mr. Bayard to Mr. Lothrop.*

No. 109.] DEPARTMENT OF STATE,
*Washington, February* 4, 1888.

SIR: I inclose a copy of a letter* of the 12th ultimo from Mr. J. K. Hood, an attorney of Cleveland, Ohio, who complains that a client of his, Mr. John Linden, of the same city, shipped a package of goods to Mr. J. A. Frey, at Daenanmende, Russia, via Riga, which was refused entry by the customs authorities at the latter place, although previous consignments of the same goods had been admitted. The goods are described as a surgical instrument for punching the skin, and an oil for external application. You will please make due inquiry in the proper quarter, and report such information on the subject as may be furnished you. The Department has no other intelligence concerning the matter than the letter inclosed.

I am, etc.,

T. F. BAYARD.

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* Not printed herewith.

No. 947.

*Mr. Lothrop to Mr. Bayard.*

No. 158.] LEGATION OF THE UNITED STATES,
*St. Petersburg, February* 10, 1888. (Received February 28.)

SIR: Mr. Isidore Albert, who claims to be a citizen of the United States, has sent to me a petition to His Majesty the Emperor, praying for pardon, which he asks me to present to the Emperor.

The facts of the case, so far as known to me, are disclosed in Mr. Albert's letter to me, a copy of which is inclosed herewith, and in my reply to him, a copy of which is also inclosed (Nos. 1 and 2).

I should perhaps say that though I have no other information, the internal evidence of his letter leads me to infer that Mr. Albert was not a native citizen of the United States.

I also suspect that when he entered the Russian military service as a medical officer he must have taken an oath of allegiance to the Emperor.

On the whole, I feel satisfied that I ought not to take any official action in the matter without your instructions. I have felt it my duty on so many occasions to remonstrate energetically against the action of the Russian authorities against our citizens in respect to matters which, as we claim, were outside their rightful jurisdiction, that I feel a delicacy in interfering where their jurisdiction is unquestionable.

For this reason I beg to ask your instructions.

Of course, forfeiture of all civil rights and perpetual exile in Siberia for the offense of accepting a bribe of nine rubles seems a most extraordinary sentence. But this is so completely a matter of domestic concern and policy as perhaps to make any remonstrance in that respect inadmissible. Besides, it is not disclosed what was the act for which the paltry bribe was taken. It is possible that it was so grave as to excuse if not justify the severity of the penalty.

I am, etc.,

GEO. V. N. LOTHROP.

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[Inclosure 1 in No. 158.]

*Mr. Albert to Mr. Lothrop.*

MARIINSK, *January* 2, 1888,
*Residence, Mariinsk, government of Tomsk, Siberia.*

SIR: My present unfortunate situation compelled me to apply to the aid and protection of your excellency.

I am a citizen of the United States, a graduate as M. D. of the Boston University. In the year of 1879, for some particular reason, I came to the capital of Russia, St. Petersburg, passed examination at the Imperial Medical Academy, got my degrees and a diploma as M. D., entered in the service of the Russian Army as physician, where I served for a term of six years. In the month of March, 1887, I was accused of receiving a present (bribery) of 9 rubl., was apprehended, tried at the military district court of Wilna, was found guilty of the aforesaid offense, and sentenced to be deprived of all my civil rights and privileges as physician and to be sent to Siberia to live here as an outlaw forever! a punishment too severe even for such an offense as I was accused of.

At present I am living at the town of Mariinsk, province of Tomsk, amongst a semi-savage population; have no means to subsist with, as I know no trade or profession but medicine. I would apply to the mercy of His Majesty the Emperor to be pardoned, but to do it in the ordinary way of sending to the committee is no use, because in that

way the Emperor will never see nor read my petition. Therefore I apply to your goodness to procure me, if possible, an opportunity that his Imperial Majesty shall read my petition.

Then I can have some hope to be pardoned.

I am, etc.,

ISIDORE ALBERT.

P. S.—I beg your excellency to return me my passport, if not as a useful document at my present state but as a souvenir of my once being a member of the greatest free nation of the world.

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[Inclosure 2 in No. 158.]

*Mr. Lothrop to Mr. Albert.*

LEGATION OF THE UNITED STATES,
*St. Petersburg, January* 29 (*February* 10), 1888.

SIR: Your letter (apparently of January 2) to me was received to-day and has been carefully read and considered.

It appears by the passport No. 5736, granted to you by the Department of State April 18, 1878, that you were a citizen of the United States; and it further appears by your letter that in 1879 you came to Russia and entered the Imperial Academy of Medicine, where you took a degree as a physician; that you entered the Russian army as a physician, where you served as such for six years; that in March, 1887, you were charged with receiving a bribe of nine rubles, for which you were arrested and tried before a military court of Wilna, found guilty, and sentenced to a forfeiture of civil rights, etc., and to perpetual exile in Siberia, the execution of which sentence you are now undergoing at Mariinsk, in the government of Tomsk. You now ask me to present a petition to the Emperor for your pardon.

It is by no means clear that you did not renounce your American citizenship by entering the military service of Russia, but as I do not know all the facts, I do not assume to pass on that point.

You are undoubtedly aware that when you entered Russia you became subject to its laws so far as your conduct here was concerned, and when you entered its military service you became subject to its military jurisdiction.

Your American citizenship would not shield you from this operation of the local laws. The only intervention that could be made in your behalf was to see that you had a fair trial, and had you appealed to me when you were arrested I should of course have inquired whether such a trial was afforded you.

But you made no appeal to this legation, and I never heard of your case until to-day. The case seems to have been regularly disposed of, and the Government is now executing a regular judgment of one of its courts.

These are the facts as far as made known to me, and they do not disclose any ground on which I can intervene officially without instructions from the Secretary of State. I will therefore at once refer the matter to him, sending a copy of your letter to me and also of this letter.

I return to you herewith your passport.

I sympathize with you, and would be very glad if I could properly aid you.

I am, sir, etc.,

GEO. V. N. LOTHROP.

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## No. 948.

*Mr. Lothrop to Mr. Bayard.*

No. 160.] LEGATION OF THE UNITED STATES,
*St. Petersburg, February* 22, 1888. (Received March 12.)

SIR: Your dispatch No. 109, of February 4, instant, was duly received to-day, and, without making any further inquiry, I am able to give the information asked for by Mr. J. K. Hood respecting the exclusion of the goods of Mr. John Linden.

In 1885 one of the largest manufacturers of pharmaceutical preparations in the United States sought to introduce his goods into Russia.

None of them were patent or secret medicines. They were excluded. At the request of the shippers I asked of the Imperial Government the reasons of this exclusion.

In February, 1886, I received from the foreign office a copy of the regulations on the subject.

It will be sufficient probably to say here that no medicaments or pharmaceutical preparations are permitted to come into Russia from abroad until they have been examined and approved by the medical board or council of the Empire.

The council, which seems to be an exceedingly conservative body, has entire control of this matter, and will not even proceed to consider any particular preparation unless it shall be first shown that it has been examined, tried, and approved by some foreign faculty of medicine, or by some institution clothed with like authority. This council also fixes the price of all such articles if admitted.

In the case which I have mentioned, formal application was made to the council for the admission of their goods about two years ago, but the application has not, I am informed, been yet disposed of.

How Mr. Linden's previous shipments passed the custom-house, I of course do not know, but probably by some inadvertence.

Very truly, etc.,

GEO. V. N. LOTHROP.

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No. 949.

*Mr. Bayard to Mr. Lothrop.*

No. 114.] DEPARTMENT OF STATE,
*Washington, March* 1, 1888.

SIR: Your No. 158, of the 10th ultimo, has been received.

In it you report the case of Isidore Albert, an alleged American citizen, who, while serving as a surgeon in the Russian army, was, according to his statement, convicted of receiving a bribe of 9 rubles and sentenced to a forfeiture of civil rights and perpetual exile in Siberia. Dr. Albert asks for such action on the part of your legation as may enable his petition for executive clemency to reach the Emperor.

From the records of the passport division in this Department it appears that Isidore Albert filed evidence to show that he, being of Russian birth, was naturalized by a decree of the United States circuit court of Boston, Massachusetts, on March 14, 1878. The circumstance that he soon after returned to the country of his original allegiance, obtained a diploma as doctor of medicine at the Imperial Medical Academy of St. Petersburg, and thereupon entered the Russian military service, is inconsistent with such obvious retention of his acquired status as a citizen of the United States, and evidences such a purpose to resume domicile in Russia as would, on the case as now submitted, make it out of the power of the Department to set up a claim of continuing citizenship against any counter-claim on the part of Russia that he had voluntarily resumed his original allegiance.

In the absence of any naturalization treaty with Russia, and in view of the well-known contention of that Government for perpetual allegiance, it may be doubted whether his entrance into the Russian military service was coupled with any recognition of his persistent status as an alien; but even if it were the fact remains, as you have very pertinently

pointed out, that by entering that service he voluntarily subjected himself to Russian military jurisdiction.

Under these circumstances the Government of the United States would require very positive evidence that he had not abandoned his American citizenship before it could intervene in his behalf, even to ask a pardon.

I am, etc.,

T. F. BAYARD.

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No. 950.

*Mr. Lothrop to Mr. Bayard.*

No. 163.] LEGATION OF THE UNITED STATES,
*St. Petersburg, March* 7, 1888. (Received March 26.)

SIR: In pursuance of the instructions of your circular of January 24 last, I applied to the Imperial minister of ways and communications for such information and publications relative to the Russian railways, etc., as he could conveniently furnish. In response thereto he has sent me a large volume, being the statistical collection for 1885–'86 touching the railways and water communication of Russia, and a large and valuable official map of the same.

The volume is in Russian, which will, of course, much impair its value for use in America.

I send to you by mail said volume and the maps, and I also send therewith a copy of the Journal de St. Petersbourg, which contains some interesting suggestions about Russian railways.

The railways in European Russia are in the aggregate about 17,500 miles. Some have been built by the Government, but the greater portion have been built by private corporations, but with Government aid in nearly all cases. This aid has been furnished by Imperial guaranties of the railway securities. The system, as a whole, is far from remunerative, and the Government has to pay annually a large sum on this account, about fifteen millions of rubles, I believe.

For several years there has been but little new railway constructed in European Russia—it is said only about 400 miles a year for the last five years—and even this chiefly for strategical purposes.

The great Transcaspian Railway, from the Caspian Sea to Samarcand, is not under the jurisdiction of the ministry of ways and communications. It has been built and is managed by the ministry of war, and if my information is correct it is not likely at present to be of any great commercial value. But for the governmental needs in Central Asia it must be of very great importance.

The financial condition of Russia is such at present that new lines of railway are not favored, and the Imperial aid has been refused for several important projects. Except the completion of work already begun, I think there will be no railway construction this year.

Very truly, etc.,

GEO. V. N. LOTHROP.

No. 951.

*Mr. Lothrop to Mr. Bayard.*

No. 168.] LEGATION OF THE UNITED STATES,
*St. Petersburg, March* 31, 1888. (Received April 16.)

SIR: On about the 15th of January last a man named Hercules A. Proios, who claims to be by birth a Greek, but naturalized at Chicago in 1871 as an American citizen, was arrested at Mariopol, in southern Russia, and has been extradited to Turkey.

It seems that Proios went to Turkey in or about 1872, and was employed in the service of the Turkish Government until August, 1887, when he left or was discharged. He then, or soon after, went to Mariopol and engaged in business as a ship chandler.

In January last it seems that the Turkish ambassador at St. Petersburg applied to the Russian authorities that Proios might be arrested and sent to Turkey to be tried upon the charge of having stolen large sums of money from the Turkish Government while in its service. This charge is strenuously denied by Proios, who insisted that he did not know the ground of his arrest. He was arrested on the above demand.

On the 18th of January I received a telegram from Proios, saying that the Turkish consul at Berdiansk unjustly demanded his arrest for debt, that his American citizenship was doubted by the local authorities, and asking me to take measures for his release. I answered, in substance, that I could take no action without further information. I heard nothing further directly from Proios.

On March 21, instant, I received a telegram from Mr. Heenan, our consul at Odessa, saying that United States citizen Proios had been arrested by order of the Turkish consul at Berdiansk, as a Turkish subject, and had that day arrived at Odessa, and that he would demand his release the next day, and asking if his action was approved. I answered at once, "Yes; but go no further than the demand." I at the same time wrote him more fully, and asking him to ascertain the facts and report to me.

The result is a full report from Mr. Heenan, disclosing the nature and the ground of the proceeding against Proios, as above set forth.

Though I had no information before on the point, I had some suspicion that a criminal charge might be behind the arrest. And, as I understand it, his claim of American citizenship would be no protection from arrest and extradition for crimes charged to have been committed by him against Turkish laws while living in Turkey; and that our intervention in his behalf could go no further than to see that the demand and surrender proceedings were regular.

I do not know whether there is any formal extradition convention between Russia and Turkey or not. Nor is this perhaps very important. As ultimately the whole matter rests on the comity of nations, and not on absolute right, the question whether it shall be exercised or not seems to rest between the two countries directly concerned. Of course its wrongful exercise against an innocent citizen of a third country might give rise to a just claim against each wrong-doer.

I will add that it is the policy of Russia not to harbor within her jurisdiction the fugitive criminals of other countries.

On the facts above stated I have not thought it my duty to take any further action, unless otherwise instructed by you, after you have considered the case.

Very truly, etc., GEO. V. N. LOTHROP.

No. 952.

*Mr. Bayard to Mr. Lothrop.*

No. 120.] DEPARTMENT OF STATE,
*Washington, April* 17, 1888.

SIR: Your No. 168 of the 31st ultimo has been received. In it you state the case of Hercules A. Proios, alleged to be a Greek by birth and a citizen of the United States by naturalization. Proios, having been in the Turkish service from 1872 to 1887, either left, or was discharged from the same, and came to Russia.

Request was afterwards made by the Turkish ambassador at St. Petersburg for his extradition on the charge of embezzling large sums of Government money while in its service.

Your opinion in regard to the case is that any intervention on the part of this Government could go no further than to see that the proceedings of the demand and surrender were regular.

The Department appreciates your thoughtfulness in reporting this case, and on the meager statement of facts before it is also of opinion that there appears to be no valid ground for remonstrance against the action of the Russian Government in surrendering Proios.

I am, etc.,

T. F. BAYARD.

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No. 953.

*Mr. Lothrop to Mr. Bayard.*

No. 176.] LEGATION OF THE UNITED STATES,
*St. Petersburg, May* 31, 1888. (Received June 15.)

SIR: On the 27th instant, being the anniversary of the coronation of the Emperor Alexander III, the Transcaspian Railway was opened formally to Samarcand with great ceremony—an event of no common importance to Russia, and even to the world. And it may well stir the dullest imagination when we read that the crowning ceremonies were at the tomb of Tamerlane.

This road is 1,350 versts in length—about 900 miles. It crosses the Amou-Daria (the classic Oxus) by a bridge of great length, the construction of which has delayed the completion of the road for some months.

This work is principally a military road. It has been built and is controlled and operated by the minister of war. At present it is little more than a skeleton road. It is deficient in stations and rolling stock. But the great fact is accomplished. It opens the door into the great field of Central Asia. All things requisite to its efficiency will in time be added to it. Though a military road, its political, economical, and commercial uses and results will not be inconsiderable.

It brings Russia near to its coveted cotton fields, from which so much is hoped. It has already set in active motion measures for the restoration of the old magnificent system of irrigation, which has fallen into dilapidation and disuse. One of the old irrigating canals is said to have been 100 miles in length. All successful cultivation of this region is dependent on irrigation, and a great increase in the production of cot-

ton seems to be confidently expected. This is really a matter of great importance.

The importation of cotton into Russia in 1887 is said to have been 10,000,000 pouds (the poud being 36 pounds), costing 96,000,000 rubles, and constituting 30 per cent. of the entire imports of the Empire. And it is mentioned with great pleasure by the public prints that the production of cotton in Turkestan rose last year to 500,000 pouds, being double of that of any previous year.

It must not be supposed that the Transcaspian Railway is likely to rest at Samarcand. Beyond lie Taschkend, Ferghana, and Semiretch, which the Russian journals describe as "the richest provinces of Central Asia, abounding in water and inviting colonization and culture."

As these lie in the direct path of the interest and the ambition of Russia, the early extension of the railway may be confidently anticipated.

At the same time the project of the construction of the great continental railway across Siberia to the Pacific is agitated with increased interest.

It is said that explorations of the line will be begun this year.

It hardly seems probable that the available resources of the Empire will permit the rapid prosecution of this gigantic undertaking, but it is a work which is necessary to the security and welfare of the Pacific possessions of Russia.

Its construction is therefore only a question of time.

I have, etc.

GEO. V. N. LOTHROP.

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No. 954.

*Mr. Wurts to Mr. Bayard.*

No. 186.] LEGATION OF THE UNITED STATES,
*St. Petersburg, July* 13, 1888. (Received August 1.)

SIR: Referring to Mr. Lothrop's dispatch No. 176 of the 30th of last May, on the subject of the opening of the railway to Samarcand, I have the honor to transmit to you, herewith inclosed, a copy and translation of an article from the Journal de St. Pétersbourg of the 11th instant, giving further information about the construction, advantage, and prospects of this new line of commerce, and touching upon points of interest to a branch of our own trade, the exportation of cotton.

In Mr. Lothrop's dispatch above mentioned reference is made to the construction of a railway through Siberia to the Pacific Ocean. In connection with this subject I had, a few days ago, a conversation with General Annenkoff, the distinguished officer to whose extraordinary energy this country owes the rapid completion of the line to Samarcand. He was very enthusiastic about this Siberian line, and said that the Emperor was highly favorable to the project and to its execution with the utmost speed. The general wishes to extend this channel of communication even further, and to effect a connection, through the Aleutian Islands, with a line on the American side of the Pacific coast; and I have reason to believe that it is his intention to endeavor to interest American capitalists in this enterprise. The general is a man of great determination of character and he will, doubtless, before a very distant day, accomplish the first part of his scheme.

The chief importance of the road through Siberia, in the eye of a

military government, is that it shall enable Russia to throw a body of troops into her possessions on the Pacific to serve as an offset to the line from the Atlantic to the Pacific on British territory. But this road also can not fail to have considerable commercial advantages. Many products of China and of other Asiatic countries would take that direction instead of following the old beaten tracks by sea to the markets of the west. For the colonization of Siberia, the southern portion of which is rich in its soil and in minerals and only requiring people there to develop its resources, this road would give valuable assistance to the Imperial Government in its efforts to divert its surplus population from seeking fortune abroad.

At present the number of emigrants who yearly go from European Russia to settle in Siberia is about 40,000, but there has been a sensible increase in this number since the completion of the railway to Orenburg on the Siberian frontier; and this new line will draw with it at its different stages towards the end thousands of settlers to the fertile valleys and plains near the Chinese border.

I am, etc.,

GEORGE W. WURTS.

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[Inclosure in No. 186.—From the Journal de St. Pétersbourg of July 11, 1888.—Translation.]

*The Transcaspian Railway.*

A Russian writer who knows Central Asia, having given attention to it some years, sends us the following communication:

The event of the 15th of May, 1888, will certainly take a prominent place in the history of the civilization of peoples in the last quarter of the nineteenth century. Thanks to the extraordinary energy of General Annenkoff, that day, the anniversary of the coronation of their Imperial Majesties, was solemnly celebrated by the inauguration of a railway of 1,345 versts, binding forever the heart of Central Asia, Samarcand, to Russia. It is truely surprising with what rapidity this line, which extends from the borders of the Caspian to the tomb of Tamerlane, was completed.

Since 1880 all western Europe, and especially England, has followed with an attentive eye our successes in Central Asia. In fact, the events were of a nature to interest all the world. The capture of the fortress of Géok-Tépé (January 12, 1881), which led to the final fall of the barbarous domination of the Turcomans; the peaceful annexation of Merv, that proud city which for centuries has troubled its neighbors of Bokhara and Persia; the defeat of the Afghans, near Kouschk, March 4, 1885; the extension of the Russian protectorate over Bokhara—all these events raised the prestige of the Russian name to a great height among the populations of Central Asia, India, Afghanistan, and Persia.

But how has the importance of the rôle of Russia been increased by the completion of this work, by means of which every learned historian and archæologist may study at his ease the monuments of Samarcand, the most ancient capital of the province of Sogdiana, erected on the ruins of the monarchy of Alexander, or may undertake archæological excavations among the ruins of the ancient Merv-Baïram-Ali! What an immense field is opened to commerce by the new line! Thanks to it, the rich Turcoman carpets, the wool of merinos, the silk of Bokhara, the leather, the silk stuffs of Samarcand, and the products of the minor industries of those countries can in twelve or thirteen days not only reach the Russian commercial centers, but also those of Paris, Vienna, Berlin, and London.

It is therefore but natural that the solemnity of the 15th of May should have assumed the character of a fête.

The construction of the Trans-Caspian Railway was begun at the close of 1880.

To facilitate the transportation of the food and forage of the troops of General Skobeleff, then on the march from the Gulf Mikhaïlovsky on Géok-Tépé, a line 22 versts long was built between the gulf and the aoul of Moullahkara. After the capture of Géok-Tépé, in 1881, this line was prolonged to the stronghold of Kizyl Arvat (217 versts). In this state the line was kept up to 1885. When in the month of February of that year alarming news of the situation on the Afghan frontier was spread, it was decided to prolong the railway as a stroke of strategy to the banks of the Amou-Daria. As circumstances required that this work should be completed as soon as possible (the

line between Kizyl-Arvat and Tchardjoui on the Amou-Daria, was to have a length of 754 versts) its execution was confided to General Annenkoff, who directed the service of the transportation of the troops of the Empire. Facts were not long in showing how well worthy of this confidence was the general. On July 2, 1885, the first rails were placed at Kizyl-Arvat, and from the 29th of November of the same year the station of Askhabad was open. On July 2, 1886, the line reached the stronghold of Merv, and on November 30 the Bokharan city of Tchardjoui, on the Amou-Daria. At this point the strategic role of the railway ceases.

Nevertheless, the line would certainly not have the importance that it possesses now if it had not been carried on to at least the first convenient center, for instance, the city of Bokhara. Therefore, at the suggestion of the constructor, it was decided the 16th of June, 1887, to build it from Tchardjoui on to Samarcand.

The 16th of January, 1888, the first rails were laid on the right banks of the Amou and the 15th of May the first locomotive came to a stand before the tomb of Tamerlane.

There, in a few words, is the history of the construction of the longest European railway.

We have been particular in stating the precise dates which mark the opening of the different sections of the line, for even on this point the organs of the Russian press do not seem, it appears to us, to be well informed. Have we not seen, as an example, one of the most serious journals affirm lately that the section from the Gulf Mikhailoovky to Askhabad was built during the expedition of General Skobeleff? How can it be expected after that, that people should be well informed about this railway?

Without touching upon the strategic nature of the line, we shall concern ourselves only about its value for commerce and industry. It is true that the want of space does not permit us to enter into details.

The writer of these lines has had occasion to visit the Transcaspian territory before and after the construction of the railway. These journeys have enabled him, without in the least being inclined to exaggerate this great undertaking, to see for himself that the railway has animated the desert countries of the Turcomans so that they are now not recognizable. The populations of the cities of Askhabad, Merv, and Tchardjoui have rapidly increased, the sandy island and desert of Ouzoun-Ada is transformed into a bay of the first order, with a town having its streets, squares, bazars, and a church. All these facts confirm the saying of the Yankees that it is not by the populated centers that railways are built, but that it is only necessary for a railway to pass by a desert for it to be transformed into a flourishing oasis.

It is entirely owing to a railway that the gigantic undertaking of the restoration of the dike of Sultan-Bent on the Mourgab, destroyed 300 years ago, can be executed and thereby call back into life the ancient granary of Central Asia. If, by the reparation of the dike, the administration of the crown property succeeds in irrigating only one-half of the land which it is expected to reclaim, that is 150,000 instead of 300,000 déciatims (2⅝ acres the déciatim) our spindles can find in Russia one-half of the cotton they need and will no longer have to import it from abroad. Thence it will not be surprising if we see American journals declare that Russia, instead of remaining a consumer of cotton, has become a producer and sends its products to foreign markets.

Let us not, however, be optimists; let us be contented with the prospect of the economy of 90,000,000 of roubles that Russia pays annually for its imports of cotton.

But it is especially the territories of Bokhara, Khiva, and Turkistan that will profit by the building of this line. He who has crossed the superb plain of Zaravschane and has been able to admire the flowers of Samarcand, Katta-Kourgan, Nouveau-Margellan and Taschkent alone can give an account of the importance of this work. If, notwithstanding the entire absence of means of transportation (for one can not consider transportation by camel as a serious thing, the camel supporting a load of from 12 to 16 pounds only (38 pounds the pond), and requiring from two to three months to go from Taschkent to Orenburg) the production of cotton has in 15 years almost doubled in the territories of Khiva, Bokhara, Kokhand, and Turkistan, it is beyond doubt that it will soon be increased tenfold, thanks to the building of the railway.

Moreover, by the finishing of this road, at least half of Iran will pass naturally into the radius of Russian commerce. The economic development will be particularly marked in the rich Persian province of Khorassan, with its holy city of Meshid. Twenty years ago attempts were made on our side to enter into commercial relations with that city, and it was solely on account of the lack of means of communication that they came to nothing. As soon as the carriage road between Askhabad, Koutchan, and Meshid is finished the Transcaspian Railway will receive by this road millions of pounds of merchandise, and the province of Khorassan will again become what it was formerly, the granary of Persia.

A. RODZIÉVITCH.

No. 955.

*Mr. Bayard to Mr. Wurts.*

No. 141.] DEPARTMENT OF STATE,
*Washington, September* 12, 1888.

SIR: I have to inclose herewith a copy of a letter of the 6th instant from the Acting Secretary of the Navy, accompanied by a report of commander of the U. S. S. *Thetis*, communicating to the Navy Department a copy of a notice served upon the American whaling ship *Belvedere* by the commanding officer of the Russian corvette *Aleut* during the whaling season of 1887. The *Belvedere* was at the time in Plover Bay, in Bering Sea, into which harbor she had put for the purpose of making necessary repairs, and among other things the notice contains is a statement that the captains of foreign vessels can not repair or obtain stores for their ships on the coasts of Bering or Okhotsk Seas or of the peninsula of Kamschatka, but for all such purposes must go to Petropaulovski, a settlement on the lower end of the peninsula above mentioned.

The Department is informed that the reason for this order is the desire of the Russian Government to prevent an illicit traffic in intoxicating liquors, which has been carried on by foreign whaling vessels with the native Indians on the coasts and islands in the quarter referred to. To the accomplishment of this important design, this Department does not desire to interpose any obstruction; and it recognizes the practical difficulties which the subject presents to the Russian Government, with the long line of coast to be policed. But the Department is reliably informed, and its information is readily supported by an inspection of the extent of the coast in question, that vessels of the whaling fleet are compelled by stress of weather and other casualty to seek such places of refuge as Plover Bay to repair and refit. For example, the distance from that harbor to Petropaulovski is believed to be about 800 miles.

This fact alone establishes the impossibility of American whaling ships pursuing their ancient and accustomed occupation in the remote waters in question, under such an interdiction as the notice apparently seeks to impose.

You will bring this matter to the attention of the Imperial Government, with a view of securing the American whaling fleet against molestation when seeking the harbors of the coasts and islands referred to, for purposes legitimately connected with or incident to the object of their voyage.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 141.]

*Commodore Harmony to Mr. Bayard.*

NAVY DEPARTMENT,
*Washington, September* 6, 1888.

SIR: I have the honor to inclose herewith, for the information of the Department of State, a copy of a letter from the commanding officer of the *Thetis*, dated July 19 last, covering the original of a notice given by the commanding officer of the Russian corvette *Aleut* to the master of the American whaling ship *Belvedere*, for the government of foreigners engaged in the whaling trade on the coast of East Siberia.

Very respectfully, etc.,

D. B. HARMONY.

[Inclosure 2 in No. 141.]

*Mr. Emory to Mr. Whitney.*

UNITED STATES STEAMER THETIS,
*Ounalaska, Alaska, July* 19, 1888.

SIR: I have the honor to inclose a notice that was served upon the whaling ship *Belvedere* by the commanding officer of the Russian corvette *Aleut* during the whaling season of 1887. The *Belvedere* at the time was at anchor in Plover Bay, to which harbor she had gone to make necessary repairs. Captain Sherman, the present master of the *Belvedere*, gave me this letter, with the request that I would forward it through the proper channels in order that the vessels of the whaling fleet may be allowed to anchor in the ports of the Siberian coast other than Petropaulovski. I am informed from reliable sources that from stress of weather or accident the vessels of the whaling fleet are obliged to seek such ports as Plover Bay in order to repair damages, and that they can not comply with the regulations of the inclosed notice, and are therefore, if forced into harbors other than Petropaulovski, liable to seizure. It is a matter of great importance to our whaling industry that the vessels composing the fleet should be permitted to seek a harbor of refuge at any port of the Siberian coast without molestation.

If the limited supply of coal in these waters permits, the *Thetis*, after her departure from the whaling ground, will visit Plover Bay, and communicate with the commanding officer of the *Aleut*, and request his kind offices should any of our vessels need a harbor or assistance.

For the information of the Department, I would add that some of our whaling ships have bartered whisky with the Indians, and that the difficulty of ascertaining what ships engage in this illegal traffic is the cause of this prohibitory notice.

I have, etc.,

W. H. EMORY,
*Lieutenant-Commander, Commanding.*

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[Inclosure 3 in No. 141.]

*Notice.*

(1) It is not allowed to the foreigners hunting for the whales to enter in our bays and gulfs, or approach to our shores and islands of Bering and Okhotsk Seas and of Peninsula Kamsckatkas nearer than five miles, because in these places the owners of whale fishing are Russian traders.

(2) The captains of foreign vessels by no means can not leave off their men for punishment, or any other reason, on desert coasts of Russian Empire; they can not also repair at these coasts their ships or store them, but for all that it is allowed to the captains go in Petropaulovski. During the anchorage here the whale fishing is forbidden, and all the foreigners are obliged to perform all the reglaments (*sic*) of this port.

(3) Without permission of local government it is not allowed to foreigners to trade on our shores with natives, or to wood, or to boil the whale's oil. The permission on all that must be received from the government of East Siberia in Vladivostock.

J. PODISPOLSAY,
*I. R. N., Commander of the Aleut.*

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## No. 956.

*Mr. Bayard to Mr. Wurts.*

No. 144.] DEPARTMENT OF STATE,
*Washington, September* 25, 1888.

SIR: I inclose a copy of a dispatch from the United States minister at Teheran, relating to the case of Mr. Easton, an American missionary at Tabriz, whose passport the Russian consul at that place declines to visa.

It would seem that Mr. Easton's object in seeking a visa to his passport is simply to quit Tabriz by the shorter and more expeditious route passing through Russian territory *via* the Baku and Batoum road, instead of being compelled to take the longer and more difficult journey through Armenia to Trebizond.

You are instructed to endeavor to obtain the requisite permission for transit for himself and family.

Should Mr. Easton's object be to reside in Russia, the Department would wish fuller information touching the circumstances of his expulsion from Turkistan by General Skobeleff, during a state of hostilities which it is believed no longer continues.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 144.]

*Mr. Pratt to Mr. Bayard.*

No. 270.] LEGATION OF THE UNITED STATES,
*Teheran, August* 17, 1888.

SIR: I have the honor to report that having been advised by Her Britannic Majesty's minister here, Sir Henry Drummond Wolff, that he was informed by Mr. William G. Abbott, British consul at Tabriz, that the Russian consul at that point had given notice that, in accordance with instructions from St. Petersburg, he could no longer visa the passports of missionaries of the English church or of priests of the church of Rome under British protection desiring to enter Russia, but that no similar instructions had been given him concerning American missionaries except in regard to the Rev. Mr. Easton, who he observed was positively prohibited entering Russia under any circumstances, I requested Sir Drummond Wolff, at my expense, to inquire by telegraph of Consul Abbott the cause of the special prohibition in the case of Mr. Easton, all Americans at Tabriz and vicinity being, as you know, under the protection of the local English consular representative.

A copy of the dispatch received by mail, answering the above inquiry and transmitted me to-day by Sir Drummond, I respectfully submit, inclosed, requesting that you will kindly consider its contents and instruct me by cable, should you deem that necessary, what action I am to take in the premises.

I have, etc.,

E. SPENCER PRATT.

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[Inclosure 2 in No. 144.]

*Mr. Abbott to Sir Drummond Wolff.*

TABRIZ, *August* 11, 1888.

SIR: I had this day the honor to receive from your excellency the following telegram:

"Your dispatch No. 8 I have telegraphed as requested. Can you let me know by post, for the United States minister, reasons for individual prohibition mentioned in inclosure four?"

In reply I have further the honor to state that during the Russian campaign against the Turkomans, Mr. Easton repaired to the scene of action, and arriving at Geog Tepé shortly after the capture of that place by General Skobeleff, commenced preaching amongst the Turkomans, but the Russians taking him for an Englishman he was speedily conducted across the frontier.

Since this incident Mr. Easton's entry into Russia has been prohibited. He has no intention at present of quitting Persia for America, but he has a delicate wife and a large family of small children for whom the journey to Trebizond would be very difficult. If therefore the United States minister could succeed in removing the prohibition in question the Easton family would be deeply grateful.

I have, etc.,

WILLIAM G. ABBOTT.

## No. 957.

### *Mr. Wurts to Mr. Bayard.*

No. 201.] LEGATION OF THE UNITED STATES,
ST. PETERSBURG, *October* 3, 1888. Received October 20.

SIR: I have to inform you of the receipt of your instructions No. 141 on the subject of the inconveniences caused by the regulations of the Russian Government which prohibit foreign vessels from entering any port on the coast of Kamschatka other than that of Petropaulovski, and that I have communicated the substance of the same to the Imperial foreign office.

I have, etc.,

GEORGE W. WURTS.

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[Inclosure in No. 201.]

### *Mr. Wurts to General Vlangaly.*

LEGATION OF THE UNITED STATES,
*St. Petersburg, September* 20 (*October* 2), 1888.

YOUR EXCELLENCY: I am instructed by my Government to call the attention of the Government of His Imperial Majesty to the danger and hardship of the situation to which are exposed whaling and other vessels in the waters of Bering or Okhotsk Seas, by reason of the regulation of the Imperial Government which obliges all foreign vessels to go for repairs, stores, or assistance to the port of Petropaulovski, a town on the lower end of the peninsula of Kamschatka.

This is illustrated by the report of the commander of the United States ship *Thetis* communicating to the Navy Department of the United States a copy of a notice served upon the American whaling ship *Belvedere* by the commanding officer of the Russian corvette *Alert* during the whaling season of 1887. The *Belvedere* was at the time in Plover Bay, in Bering Sea, into which harbor she had put for the purpose of making necessary repairs; and among other things the notice contains is a statement that the captains of foreign vessels cannot repair or obtain stores for their ships on the coasts of Bering or Okhotsk Seas, or the peninsula of Kamschatka, but for all purposes must go to Petropaulovski, a settlement on the lower end of the peninsula above mentioned.

The Department of State of the United States is informed that the reason for this order is the desire of the Imperial Government to prevent an illicit traffic in intoxicating liquors, which has been carried on by foreign whaling vessels with the native Indians on the coasts and islands in the quarter referred to. To the accomplishment of this important design the Department of State does not desire to interpose any obstruction, and it recognizes the practical difficulties which the subject presents to the Imperial Government, with the long line of coast to be policed.

But the Department of State is reliably informed, and its information is readily supported by an inspection of the extent of the coasts in question, that vessels of the whaling fleet are compelled, by stress of weather and other casualty, to seek such places of refuge as Plover Bay to repair and refit. For example, the distance from that harbor to Petropaulovski is believed to be about 800 miles.

This fact alone establishes the impossibility of American whaling ships pursuing their ancient and accustomed occupation in the remote waters in question, under such an interdiction as the notice apparently seeks to impose.

In bringing this matter to the attention of the Imperial Government I sincerely trust that the Government of His Imperial Majesty will recognize the justice of the complaint of the Government of the United States, and that it will take such measures as may be necessary with a view of securing the American whaling fleet against molestation when seeking the harbors of the coasts and islands referred to for purposes legitimately connected with or incident to the object of their voyages.

I avail, etc.,

GEORGE W. WURTS.

No. 958.

*Mr. Wurts to Mr. Bayard.*

No. 206.] LEGATION OF THE UNITED STATES,
*St. Petersburg, October* 29, 1888. (Received November 21.)

SIR: As it is possible that a recently published report of the British foreign office from their consulate Taganrog in southern Russia, on the railway extension in cis-Caucasia and the opening of line to Novorossisk, may not have been received at the Department, I deem it of sufficient interest to transmit herewith a copy.

It contains a description of the harbor works, in course of construction there, and of a town, rapidly rising in importance, which is doubtless destined to become, after Odessa, the principal sea-port of the Black Sea.

The exportation thence of grain has already grown to considerable proportions, and before long, with the completion of the branch lines of railway now being built, the vast plains of the cis-Caucasus, and the steppes extending northeast to the Volga, which have been much in need of an outlet near at hand for their products, will be drained by that route.

A statement has been made, in connection with this report, that the Russian Government contemplated the removal of the naval station at Sebastopol to Novorossisk, but this is not easily credible, for great pains and expense have been taken to restore Sebastopol to something like its pristine splendor; rebuilding forts, arsenals, etc., with a shipbuilding yard for men-of-war. It is more likely that both ports may be made naval stations, both having their objectives; Novorossisk for the Caucasus and the trans-Caspian region, and Sebastopol for the western part of the Black Sea. An indication of this intention of the Russian Government is the exclusion of foreign consular officers from Novorossisk. Our government, some four or five years ago, appointed a consular agent at that place, but the imperial foreign office declined to issue exequatur to him. I judge, however, this exclusion to be of slight importance to our commercial interests, for the exports thence, almost entirely of grain and petroleum, can scarcely be directed to American markets, and it is not probable that many imports from America will take that channel instead of the well-beaten path to Odessa.

I have, etc.,

GEORGE W. WURTS.

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No. 959.

*Mr. Wurts to Mr. Bayard.*

No. 213.] LEGATION OF THE UNITED STATES,
*St. Petersburg, November* 10, 1888. (Received November 28.)

SIR: Referring to your instruction No. 144 of the 25th of September last, and to my reply No. 202 of the 10th ultimo, on the subject of the refusal of the Russian consul at Tabriz, Persia, to visa the passport of the Rev. Mr. Easton, an American missionary in Persia, who desires to pass through Russian territory in traveling to the west, I beg you to

find inclosed herewith a copy of my note to the Russian foreign office requesting that Mr. Easton and his family be permitted to pass through Russian possessions, and a copy and translation of the answer from the Imperial ministry of foreign affairs communicating the refusal of the minister of the interior to grant the desired authorization, on the ground that Mr. Easton had on former sojourns endeavored several times to make conversions to the Protestant faith among Russian Armenians.

I have, etc.,

GEORGE W. WURTS.

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[Inclosure 1 in No. 213.]

*Mr. Wurts to Mr. de Giers.*

LEGATION OF THE UNITED STATES,
*St. Petersburg, September* 28 (*October* 10), 1888.

YOUR EXCELLENCY: The Department of State of the United States informs me that the Russian consul at Tabriz, Persia, has refused to visa the passport of the Rev. Mr. Easton, an American missionary in Persia, who desires to make the journey to western countries with his family by way of Baku and Batoum instead of taking the longer and more difficult route through Armenia to Trebizond, the delicate state of health of the wife of Mr. Easton making it desirable to avoid this more fatiguing journey.

I have no doubt that the refusal of the Russian consul is based upon the general law which requires special authorization for ecclesiastics to enter the Empire.

Should this be the case, I beg your excellency to have the kindness to give orders to grant this special permission to Mr. Easton to enable him to enter the Empire with his family.

I would be much obliged if your excellency would graciously favor me with an early reply on this subject, and avail, etc.,

GEORGE W. WURS.

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[Inclosure 2 in No. 213.—Translation.]

*General Vlangaly to Mr. Wurts.*

MINISTRY OF FOREIGN AFFAIRS,
*Asiatic Department, October* 28 (*November* 9), 1888.

Mr. CHARGÉ D'AFFAIRES: By a note dated September 28 (October 10) you requested the intervention of the imperial ministry of foreign affairs in order to obtain permission for Mr. Easton, an American missionary, domiciled at Tauris, to pass through the Caucasus in proceeding to Western Europe.

I have to-day the honor to inform you that the minister of the interior, to whom I communicated this subject, has not deemed it possible to grant said authorization to Mr. Easton, for the reason, based on information furnished to the ministry of the interior by the authorities of the Caucasus, that during the sojourns formerly made by Mr. Easton in our Caucasian provinces, whither he had gone from Tauris, he had several times endeavored to make propaganda of the Protestant faith among Russian Armenians.

Please accept, etc.,

A. VLANGALY.

## CORRESPONDENCE WITH THE LEGATION OF RUSSIA AT WASHINGTON.

### No. 960.

*Baron Rosen to Mr. Bayard.*

WASHINGTON, *November* 7, 1887. (Received November 7.)

SIR: Referring to previous correspondence exchanged between this legation and the Department of State on the subject of the International Prison Congress to assemble at St. Petersburg in 1890, I have the honor to forward to you, by order of my Government, the inclosed printed documents.

(1) Protocols* of the session held at Berne in September, 1886, of the International Prison Commission.

(2) Regulations* for the International Prison Commission, and an act interpreting the same adopted at the conference held at Berne in September, 1886.

These documents have been submitted to the governments participating in the International Prison Commission, viz: The governments of France, Hungary, Italy, Denmark, Bavaria, Switzerland, Baden, Spain, the Netherlands, Sweden, and the senates of the free cities of Hamburg and Lubeck. All these governments, with the exception of that of Spain, who reserved their opinion, have notified their approval of the interpretation act elaborated by the conference at Berne.

The success of the congress of 1890 being in a measure dependent on the participation of the greatest possible number of governments in the preparatory work intrusted to the International Prison Commission, I am instructed to bring the foregoing to the notice of the Government of the United States.

Accept, etc.,

ROSEN.

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### No. 961.

*Mr. Bayard to Mr. de Struve.*

DEPARTMENT OF STATE,
*Washington, December* 23, 1887.

SIR: I have the honor to acknowledge the receipt of Baron Rosen's note of 7th ultimo, calling attention to the preliminary work to be done pending the actual session of the delegates to the fourth international prison congress, which meets at St. Petersburg in 1890, and to say in reply that the matter of the appointment of a delegate on the part of the United States is receiving special attention in Congress; and I have communicated to the Senate Committee on Foreign Relations the suggestion of Baron Rosen's note.

Accept, etc.,

T. F. BAYARD.

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* Not printed herewith.

## CORRESPONDENCE WITH THE MINISTER OF FOREIGN AFFAIRS OF SALVADOR.

### No. 962.

*Mr. Delgado to Mr. Bayard.*

[Translation.]

SAN SALVADOR, *April* 25, 1888. (Received May 14.)

Mr. MINISTER: I have been instructed by the President of the Republic to address your Government, through your excellency, thanking it in the warmest manner for the friendly intervention of the Hon. H. C. Hall, envoy extraordinary and minister plenipotentiary of the United States near the Government of Central America, in the settlement of the question which was pending between my Government and Italy, it having grown out of a claim of Dr. Francesco Sagrini, an Italian subject.

His excellency Mr. Hall on this occasion gave fresh evidence of the zeal with which he constantly seeks to draw closer the cordial relations existing between the United States and this Republic, and, owing to his long experience, his perfect knowledge of the customs of these countries, his well-known ability as a diplomatist, and the authoritative position which he occupies on account of being the dean of the diplomatic corps accredited in Central America, greatly contributed to the final and satisfactory settlement of this extremely delicate question, which seemed likely to be followed by serious and unpleasant consequences.

Renewing to your Government, in the name of my own, the assurances of its gratitude for having instructed Mr. Hall to lend us his valuable co-operation in the settlement above mentioned, I take pleasure in reiterating to your excellency, etc.,

MANUEL DELGADO.

# SANTO DOMINGO.

## No. 963.

*Mr. Thompson to Mr. Bayard.*

[Extract.]

No. 19.] LEGATION OF THE UNITED STATES,
*Port au Prince, Hayti, January* 30, 1888.
(Received February 9.)

SIR: I have the honor to acknowledge the receipt on the 28th instant of dispatch No. 17, Santo Domingo series, wherein it states that the honorable Secretary of the Navy has instructed the commander-in-chief of the United States naval force on the North Atlantic station, if practicable, to place a vessel at my disposal in order to proceed to Santo Domingo and there urge in person the claim of Mr. C. E. Frary. I am of the opinion now that such is the only way of reaching any result with the Dominican Government, for such Government appears to give no attention whatever to our representations. The secretary of state of Santo Domingo does not even acknowledge receipt of dispatches. I have recalled to his attention by dispatches and duplicate dispatches several times the claims of Mr. Frary and of Mr. Arteaga, but receive no reply whatever. The principal object of this dispatch, in view of the probability of a visit to Santo Domingo, is to request instructions of such a nature that will possibly enable me to arrange the affairs now pending. Mr. Frary makes a claim for $25,000; Mr. Arteaga claims for $26,000. I am animated with a desire to end in their favor if possible, all of these disagreeable affairs so patent of wrong to our citizens, and while anxious to carry out loyally to the letter every instruction received from the Department, in view of the gravity that may arise by further refusal to acknowledge the tort and settle the affair, wish to follow that course of action that your superior judgment can point out to me.

I have, etc.,

JOHN E. W. THOMPSON.

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## No. 964.

*Mr. Bayard to Mr. Thompson.*

No. 20.] DEPARTMENT OF STATE,
*Washington, March* 19, 1888.

SIR: On the 13th instant I received from you a telegram in regard to the claim of Mr. C. E. Frary *vs.* San Domingo.

Immediately upon receipt of this telegram Mr. Green B. Raum, the attorney for Mr. Frary, was communicated with and his views requested

as to the settlement which you were able to obtain. I have to-day received a letter from Mr. Raum, and I have telegraphed to you at St Thomas as follows:

THOMPSON,
*Minister, U. S. Ship Atlanta, St. Thomas:*

You are authorized to accept $10,000, payable in foreign debt, every sixty days in settlement of Frary claim.

I am, etc.,

T. F. BAYARD.

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No. 965.

*Mr. Thompson to Mr. Bayard.*

[Extract.]

No. 21.] LEGATION OF THE UNITED STATES,
*Port au Prince, Hayti, March* 30, 1888. (Received April 25.)

SIR: Confirming my No. 20 of the 27th ultimo, I have the honor to inform you that I arrived in the U. S. S. *Atlanta* at Santo Domingo City on the afternoon of the 29th of February; the United States consul coming aboard, I immediately sent through him a note to the minister of foreign affairs, requesting audience; in reply he fixed the hour at 10 o'clock the following morning.

Accompanied by Consul Astwood, I paid my official visit to the Hon. Manuel Maria Gautier and presented to him my letter of credence, making remarks to the effect that my Government regretted that the difficulty of direct communication between the city of Santo Domingo and of Port au Prince had prevented my presenting myself before; consequently, in order to keep from any further delay, the United States Government decided upon sending a vessel of war as an additional mark of their friendly feelings toward Santo Domingo, and finished by saying: "Mr. Minister, in presenting to you this letter from the Secretary of State of the United States, I beg to assure your excellency that there will never be any lack of endeavor on my part to try and subserve to the best of my ability the friendly relations that have heretofore always existed between our two Governments, and which are so essential to our national intercourse."

Mr. Gautier replied in appropriate terms and offered to accompany us to the office of President Hereaux, whom I found to be a very excellent man of sound reasoning and logical opinions.

During our conversation he said words to the effect that he regretted that the United States Government did not have their chargé d'affaires permanently residing at Santo Domingo, or at least that he could not visit them more frequently, for, said he, "we are liberal toward foreigners, and we have here very many United States citizens; in Hayti foreigners can not own property, here they have every right the same as a Dominican, hence we would be highly pleased could we see more of the diplomatic representative of the United States."

I understand there is a project coming up before the Dominican Congress during the present session for the support of a diplomatic representative to Washington.

My official visits were extremely pleasant.

On returning to the department of foreign relations Mr. Gauties informed me that he had sent me dispatches but a few days previously, and he would furnish me with their copies. I expressed thanks and we retired. That afternoon I received the copies of the dispatches wherein the minister requested such data as I might have to assist him in judging the claim of Mr. Frary and Mr. Arteaga. I drew up the cases as fully as possible and transmitted them to him. On the 7th of March, as Captain Bunce, of the U. S. S. *Atlanta*, had to coal at St. Thomas, I sent a dispatch, copy herein inclosed. In reply Mr. Gautier appointed 10 a. m., Thursday the 8th instant. We passed nearly all of that day in discussing the case of Mr. Frary, and I found from authentic documents that conscientiously our citizen's cause could be substantiated on account of the principle for which I was arguing, viz, that the governor of Puerto Plata had exceeded his authority in having kept Mr. Frary, a United States citizen, under surveillance and refusing him a passport in order to retain him at that city. I argued that in such a case, an arrangement of some kind should have been made, yet I could not lose sight of the fact that it was probably our citizen's indiscreet actions and defiant, if not insulting, attitude that probably actuated those in power to be unsympathetic toward him and push their law to the finest point. Mr. Gautier's argument was that, according to Dominican laws founded on the "Code Napoléon," nothing illegal had been committed from first to last, and had the litigants been Dominicans the same proceedings would have taken place. He told of the belligerent attitude Mr. Frary had taken against their laws and his open avowals not to respect them, and that the Goodrich and Singer Lumber Company had already intended suspending business in Santo Domingo before the affair, for all of which he exhibited more or less proof. But while he could explain to me why Mr. Frary was not permitted to leave Puerto Plata, he was unable to give legal reasons for eventually granting the passport. Finally, Mr.Gautier attacked the amount claimed for, and showed me by papers authenticated by Consul Simpson that at first Mr. Frary asked for the value of the mahogany logs—$1,000 for the company's loss at Monte-Christi, $500 for the company's loss on the Yagua River, $1,000 for his detention, and $5,000 for about two months' legal advice; aggregating in all nearly $11,000. Later the sum was fixed at $15,000, and now I was claiming for $25,000. I told him distinctly that in my mind the act of a wrong having been committed was established, since he could not explain the reason for the Government repudiating the action of three governors who had refused the passport, and if he would acknowledge such principle we would certainly have no question about the amount of indemnity. He was willing to do this, and offered in settlement $5,000 in the foreign debt, but I succeeded in raising the sum to the amount of $10,000 in the foreign debt, payable in installments every sixty days subject to your approval.

In regard to Arteaga's case we could not agree on account of the absence of certain facts that Mr. Gautier alleged with time he could prove.

Sunday morning, the 11th of March, we left Santo Domingo City direct for St. Thomas. Arriving there, I immediately sent you a cablegram, as follows:

DEPARTMENT OF STATE,
*Washington:*

Frary settled, subject your ratification, ten thousand, ample, payable in foreign debt every sixty days. Answer requested. Considering Arteaga.

THOMPSON.

A day or two later came the reports of the blizzard and the inability using the cable, but I awaited, expecting a response as soon as the res could be used, when Friday the French steamer *Ville de Bordeaux*, m Hayti, arrived in St. Thomas, and the news spread like wild-fire ough that city that President Salomon was very ill, not expected to e; that presidential aspirants had presented themselves, and that the ople were on the point of taking up arms, and that foreigners were great danger. I was attending a musical soiree at a Danish gentle- n's house when the news was announced to me. Arriving on board *Atlanta*, I was informed by some of the officers, who had passed the ening elsewhere, that they had met the French secretary of legation Hayti, who was on leave *en route* for Europe by the steamer *Ville Bordeaux*, and that he confirmed the current reports. Naturally this ve a very serious aspect to affairs. The following morning I called board the *Ville de Bordeaux* to see the French secretary, Mr. Despe- lles, and he acquiesced in the gravity of affairs in Hayti. Later I t the French consul, who informed me confidentially that Captain ntet, of the frigate *Du Couëdic*, then at St. Thomas, had sent a cable- m on the strength of the reports to the navy department in Paris, uesting instructions to leave immediately for Port au Prince, although minister of foreign affairs, Mr. Brutus St. Victor, had sent the Hay- n consul a confidential circular denying the reports. I felt if there s any menacing of peace my place was at Port au Prince, so requested ptain Bunce to convey me immediately to Santo Domingo, where I ld take a hurried departure from that Government and return here. is he did, thus leaving the case of Mr. Arteaga undecided, as the cuments from Puerto Plata had not been received, and my stay was ly sufficiently long to make the proper adieus. I reached this city on 21st instant, finding everything perfectly peaceful and quiet. True, emies of the present administration had enlarged upon President lomon's indisposition, but he was then so far recovered as to continue daily duties. True, there had been some anxiety felt, but it was of ort duration, yet sufficiently long to cause the minister of foreign airs to deny it to his agents, in order to prevent a false, and, perhaps, mmercially, a disastrous report abroad.

I received your dispatches Nos. 19 and 20 on the 27th and shall com- nicate with the foreign office at Santo Domingo by the first oppor- nity.

I regret that my stay at Santo Domingo City was shortened, for I believe a few days' longer sojourn I should have performed further duties to e Department's satisfaction, but under the circumstances was forced consider my presence here absolutely indispensable, if one of those volts or destructive insurrections, for which, unfortunately, Hayti is storic, was imminent.

By the French steamer arriving yesterday I received your cable dis- tch from St. Thomas, which read as follows:

OMPSON,
*Minister U. S. ship Atlanta, St. Thomas:*

You are authorized to accept $10,000 payable in foreign debt every sixty days in tlement of Frary claim.

BAYARD.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 21.]

*Mr. Thompson to Mr. Gautier.*

U. S. S. ATLANTA,
*Off Santo Domingo City, March* 7, 1888.

SIR: The undersigned chargé d'affaires of the United States having complied with your request concerning the data in the cases of Messrs Frary and Arteaga, has the honor of informing your excellency that being obliged to leave this port at 6 o'clock Sunday morning at the latest to visit St. Thomas and there communicate with his Government, it would be pleasing could the undersigned report favorably regarding the equitableness of the Government you represent; therefore if your excellency is disposed to treat the questions with me verbally, with the intention of drawing these matters to a termination immediately, I beg to assure you that I am entirely at your disposition, and I dare to remark that my desire to maintain the cordial relations between the two Republics is so profound that I am capable of considering any manner of proceeding that calls for promptness and justice the one toward the other, but I must anticipate the danger of delay, which in the present case might be unfortunate in their consequence to the relations which, I trust, you are anxious to foster to the utmost intimacy.

The undersigned requests a reply of you at your earliest convenience and assures you of his distinguished consideration.

JOHN E. W. THOMPSON.

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No. 966.

*Mr. Bayard to Mr. Thompson.*

No. 23.] DEPARTMENT OF STATE,
*Washington, May* 2, 1888.

SIR: Your No. 21, of March 30 last, on the subject of Frary and Arteaga gives satisfaction to the Department, which, however, awaits further information as to the former case.

Should it be necessary, fresh instructions will be sent in regard to that of Arteaga.

I am, etc.,

T. F. BAYARD.

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No. 967.

*Mr. Bayard to Mr. Thompson.*

No. 26.] DEPARTMENT OF STATE,
*Washington, July* 6, 1888.

SIR: I inclose copy of a dispatch from the consul at Puerto Plata concerning the request of Mr. Morris Myerston for a passport. Mr. Simpson has been instructed that passports should be issued by the minister, in accordance with paragraph 134 of the Consular Regulations.

Assuming that on May 12, 1873, Abraham de Mesa Myerston, the father of the present applicant, exhibited a passport at the Puerto Plata consulate from the Department of State, this, by itself, would, at the present period, be no proof that he is at this time domiciled in the United States, so as to entitle him, or such of his family as have the right to partake of his domicile, to a passport of this date.

But, aside from this view, there is no evidence before Mr. Simpson, according to his dispatch, that Morris Myerston, who, he says, was thirty-two years of age when this passport was presented to his consulate by Mr. Myerston, sr., was at that time a citizen of the United States.

The mere fact of the father being a citizen at that date does not make the son so; for the son may, if the father was a naturalized citizen, have been born out of the United States before the father's naturalization, and may have been of full age at the time of such naturalization, in which case he would not partake, under section 2172 of the Revised Statutes, of his father's citizenship. The same section also applies only to such children of such naturalized parents as are "dwelling in the United States," and though a mere temporary visit to San Domingo would not exclude the supposition of such "dwelling," yet no proof of "dwelling in the United States" at any time appears to have been offered.

The mere declaration of the father, in 1873, that his three sons, of whom Morris was one, "were citizens of the United States," is no proof of such citizenship, because it involves a conclusion of law as to facts of which there is no evidence. And even supposing that the son was born in the United States, or was entitled, when coming of age, to citizenship on the basis of his father's citizenship, yet the fact that he has remained, if such be the case, in San Domingo since 1873 without seeking to return to the United States, there to assume the duties of a citizen thereof, would preclude him from claiming a passport from you.

The facts appear to be too imperfectly stated by Mr. Simpson to enable the Department to decide whether Mr. Morris Myerston is entitled to a passport, and these suggestions are merely made to put you on inquiry and to suggest the evidence you should require to be furnished before complying with Mr. Myerston's request.

I am, etc.

T. F. BAYARD.

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[Inclosure in No. 26.]

*Mr. Simpson to Mr. Rives.*

No. 94.] CONSULATE OF THE UNITED STATES,
*Puerto Plata, June* 14, 1888.

SIR: Mr. Morris Myerston, a resident of this place, claiming American citizenship has applied to me for a passport, to replace one lost by him, together with other documents, on a recent trip to Venezuela.

The record-book of this consulate shows that May 12, 1873, Abraham De Mesa Myerston presented a passport from the Department of State, and declared that his three sons (naming them) were citizens of the United States. Morris Myerston was one of these, and at that time thirty-two years of age.

I have known Mr. Myerston since 1874; have always considered him an American citizen, and so has he been regarded by the authorities. He was born in St. Thomas; has spent the time since I became acquainted with him mainly in Puerto Plata, with occasional trips to Venezuela, where he has business interests, and where he claims to have last renewed his passport.

If Mr. Myerston was a citizen at the time his name was recorded in the books of this consulate, I do not believe he has done anything to forfeit his right to such a claim, but as the regulations are so strict in regard to the issuance of passports, I deem it best to ask instructions before granting a new one.

I am, etc.

THOS. SIMPSON.

# SERVIA.

## No. 968.

*Mr. Fearn to Mr. Bayard.*

No. 6.] LEGATION OF THE UNITED STATES,
*Belgrade, November* 21, 1887. (Received December 12.)

SIR: I deem it important to call the attention of the Department to the recent completion of the Servian railway system as regards communication with Constantinople and Salonica. The distance by rail between Belgrade and Constantinople is 1,296 kilometers, or 742 English miles, and the road is now complete, except about 50 kilometers in Bulgaria between Zaribrod, at the Servian frontier, and Sophia, the Bulgarian capital. This gap, including some heavy work at Dragoman Pass, in the Balkan Mountains, is being rapidly filled by the Bulgarians, and trains will be running regularly over the whole line early next spring; probably in March. Belgrade will then be on the great International and Orient Express route from Paris to Constantinople, between which terminal points the time will be reduced to about seventy hours.

The railway hence to Salonica, a distance of 692 kilometers, or 432 miles, has been practically finished for several months, but the opening of the line to the public has been and still is delayed by a variety of causes, chiefly, it seems, the opposition of the Turkish and Bulgarian authorities. Mr. Ristics informs me that the decree for opening the line, about one-half of which runs through Turkish territory, only awaits the Sultan's signature. The Austro-Hungarian Government, deeply interested in this new route placing Vienna within thirty and Buda-Pesth within twenty-four hours of the Ægean sea, is exerting strong pressure in favor of its immediate opening. This can not in any event be postponed after the completion of the main line to Constantinople, with which that to Salonica is identical as far as Nisch, 240 kilometers, or 150 miles, from here. It then diverges south, and crossing the Macedonian frontier at Vranya, near the historic field of Kossovo, passes through the considerable town of Usküb, where it joins the railway now being extended to a junction with the Austro-Hungarian system in Bosnia, and, running down the valley of the Vardar, finally reaches its terminus at Salonica. This fine harbor, within twenty-four hours steaming of the Piræus and three days of the Suez Canal, will no doubt become a formidable rival to Brindisi, and probably be the point of transshipment for the Asiatic, Egyptian, and Indian mails, until railway connection is completed with the Piræus itself.

I have, etc.,

WALKER FEARN.

# SIAM.

## No. 969.

*Mr. Child to Mr. Bayard.*

43.] LEGATION OF THE UNITED STATES,
*Bangkok, Siam, September* 22, 1887. (Received November 14.)

IR: It gives me pleasure to forward you a proposed enactment of the mese Government in regard to trade-marks, with the accompanying er of the acting foreign minister, requesting that it be submitted to Government of the United States for approval. This is something t has long been needed in Siam. Asiatics and others have been in habit of using American and other nationalities' trade-marks to an imited extent, especially as regards American petroleum, prints, and :on goods. Large quantities of the latter are sent here and to China ın inferior quality with standard trade-marks on them; an inferior cle of petroleum is also extensively shipped here stamped with the t American trade marks, and the country flooded with lamps made Europe after American designs; all of which have a tendency to de-:iate American goods. The carrying out of this law will put a stop urther deception and have a tendency to restore American goods to :oper basis.

.t a meeting of the resident consuls in Bangkok objections were made he law on account of excessive fees charged for registration; also, t it was indefinite in carrying out its provisions. While recognizing necessity of the law, it was thought that the law of trade-marks in ı country should be the basis of carrying out the law here, which, if e, would render it a nullity.

I have, etc.

JACOB T. CHILD.

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[Inclosure 1 in No. 43—Translation.]

*Phya Bhaskarawongse to Mr. Child.*

FOREIGN OFFICE,
*Bangkok, September* 9, 1887.

ı. MINISTER: I have the honor to inclose copy of a draught law for the protection registration of trade-marks in Siam, with the request that you will be kind enough ·ocure the assent of your Government to the same, in order that the law may be in force without unnecessary delay. Recent experience has shown the urgent . of some law of this kind, and it is hoped that your Government will lend its ıtance in the matter, by undertaking to enforce its provisions, in the case of all ɔns who are under your consular jurisdiction in Siam.

however, there should be any objection on the part of your Government to the osed law, or any part thereof, I beg you to inform me of the same.

With the assurances, etc.,

PHYA BHASKARAWONGSE.

[Inclosure 2 in No. 43.—Translation.]

*A law for the protection and registration of trade-marks.*

(1) Any person who is the registered proprietor of any trade-mark, registered in any country which has friendly relations with Siam, may apply to His Majesty's Government (through his consul) to have such trade-mark registered in Siam.

(2) Upon any such application the applicant shall supply to His Majesty's Government satisfactory proof of the due registration in some country of the trade-mark in respect of which the application is made, and shall pay a fee of 100 ticals. And upon such proof being found satisfactory, the applicant shall be registered in a book to be called the "Siam Trade-Mark Register," and a certificate of registration shall be delivered to the applicant. Such certificate may be in the form of Schedule 2.

(3) Any person who, after the 31st day of December, 1887, shall directly or indirectly import, make, sell or offer for sale in Siam any article bearing on or about it, or on or about the receptacle containing it, any mark which is a fraudulent or colorable imitation of any trade-mark registered in Siam, or who shall in any way infringe such trade-mark, shall be liable in damages to the registered proprietor of the said trade-mark.

(4) Any person who shall do any such act or thing as mentioned in section 3 hereof, and who shall be proved to have done so, maliciously or fraudulently, or with a willful intent to injure the proprietor of any trade-mark, shall be liable also to a fine not exceeding 100 ticals for each successive conviction, and the fine shall be paid, one-half to His Siamese Majesty's minister for foreign affairs and one-half to the court in which such fine is imposed.

(5) The registered owner of any trade-mark registered in Siam may by himself, or his attorney or agent, proceed against any person who shall have become liable under this act to be proceeded against, in the tribunal to which such person may be amenable by law, and such tribunal shall entertain and determine all actions or proceedings instituted by the owners of trade-marks in Siam, whether for the recovery of damages or fines, or both.

(6) All goods and articles in respect of which any legal proceedings shall have been instituted, and which shall have been declared by any tribunal to be counterfeit or fraudulent, shall be deemed forfeited to His Majesty, and may be seized wherever found by any police agent or constable in the employment of His Majesty's Government.

(7) Any person who shall be proved to have aided and abetted any offense under this law shall be liable equally with the principal offender, and may be prosecuted or made a defendant in any action for damages, notwithstanding that such principal offender has not been or can not be prosecuted.

(8) The registered owner of any trade-mark in Siam may assign his rights therein by making an application to the Siamese Government and producing the contract, or deed of assignment, by which such right has been or is intended to be transferred. And upon every transfer of a right in any trade-mark, whether by contract or by operation of law, as by the death of an owner, or otherwise, a fee of 10 ticals shall be paid, either by the person applying to be registered, as transferee, or by the transferor. And thereupon a note shall be made in the Siam Trade-Marks Register, and a certificate of registration shall be delivered to the person to whom the transfer has been made.

(9) The said register shall be open to the inspection of any person upon payment of a fee of 2 ticals.

Given on the ——— waxing of the ——— month of the year Kun 1249 of the Civil Era, in the 20th year of His Majesty's reign, corresponding to the ———.

By His Majesty's command,

BHASKARAWONGSE.

The first schedule above referred to.

| Name. | Nationality. | Date of signature. |
|---|---|---|
| | | |

Second schedule above referred to: (X Y) of (Singapore), a (British) subject, is the registered owner of a trade-mark for matches of which a fac-simile is attached to this certificate.

Signed by A. B.
*Registrar of Trade-Marks.*

Bangkok, this (1st) day of (January, 1887.)
(Fac-simile of trade-mark.)

No. 970.

*Mr. Child to Mr. Bayard.*

No. 56.] LEGATION OF THE UNITED STATES,
*Bangkok, January* 6, 1888. (Received February 20.)

SIR: I have the honor to inclose you the amended liquor law of Siam, whereby the United States is included among the "most favored nations."*

The omission was an oversight on the part of the translator, but so far the law has remained inoperative.

I have, etc.,

JACOB T. CHILD.

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No. 971.

*Mr. Child to Mr. Bayard.*

No. 59.] LEGATION OF THE UNITED STATES,
*Bangkok, February* 18, 1888. (Received April 9.)

SIR: I have the honor to report that, so far as I can learn, the mission of Sir Andrew Clarke, the agent of an English syndicate to build railroads in Siam, has proven a failure. The Siamese authorities refused to enter into negotiations with him, save that they would expend $20,000 or $25,000 in surveys for proposed lines, assuring him that they were not ready to build roads at present, nor could they do so until they knew definitely what said roads would cost and what business could be done over them, which would require at least two years; and even then, after the surveys are made, the King would not pledge himself to do anything, so the whole matter remains *in statu quo* as regards railroads in Siam.

I have, etc.,

JACOB T. CHILD.

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No. 972.

*Mr. Child to Mr. Bayard.*

No. 60.] LEGATION OF THE UNITED STATES,
*Bangkok, March* 13, 1888. (Received April 23.)

SIR: I have the honor to report that J. J. Cooper, an English mining engineer, who was sent out from London by a company to examine into the value of the Banta Phan gold mine, situated on the east coast of the Gulf of Siam, about 350 miles from Bangkok, has made an elaborate examination of said mines, and reports that he found three distinct divisions in the gold field there.

(1) Alluvial, that has been worked by the natives from as far back as 1510 A. D., over an area of 40 square miles, with the rudest appliances, and from which vast treasure has been derived by the gold-washing tribes of the coast, the evidences of which are the numerous vessels of Siamese gold in the possession of the nobles, the royal metal from there being 24 carats fine.

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* See For. Rels., 1887, p. 974.

(2) A river flows through the placers from northwest to southeast, the bed of which has never been disturbed, and which can be turned or dredged.

(3) A quartz lode measuring 1 mile in length by 60 feet in width, the surface and excavations of which yield an average of 1½ ounces to the ton.

The auriferous area is 10 miles long by 3 wide. A concession for twenty-five years has been granted to Chevalier A. Luzzatie, an Italian, and a company organized with a capital stock of £250,000, three-fourths of which, it is asserted, has already been taken in London. A royalty of 12 per cent. of the net profits of the mines is to go to the Siamese Government. The company have the exclusive right to all minerals in the boundaries of the concession, an area 10 miles in length by 3 miles in width, containing 4,000 acres of available mining surface, which Mr. Cooper asserts will average 116 ounces to the acre.

Three different surveys have been made of these mines, and all of them pronounced favorable. The Banta Phan mines are located near a small bay, accessible for the largest ships, and are 2 miles from the coast, in a well timbered and watered region, easy of access, so that machinery and supplies can be sent to the mines by building a short road through the jungle which skirts the coast.

Heretofore the mines have had the reputation of being very unhealthy, and thousands of human lives have been sacrificed to the greed of the nobles in their endeavor to obtain the precious metal. The present company proposes to erect habitable dwellings and to clear the forest and undergrowth, so that the health of the place may be improved. Mr. Cooper, who has had considerable experience in examining and exploring mines, says that the Banta Phan is one of the most peculiar that it has so far been his fortune to examine. It embraces everything needed to operate it successfully, timber and water plenty.

Work will be commenced as soon as the machinery can be shipped from England and skilled miners sent for. The fact that a company has been organized in London to work the mines, a telegram to that effect having been received here, tends to give credence to the report of Mr. Cooper as to the richness thereof, many specimens of which seem to corroborate his assertions, but as the reports of gold-mining operations must be taken for what they are worth, I send you the above information, which I have received from Chevalier Luzzatie and others interested.

I have, etc.,

JACOB T. CHILD.

# SPAIN.

## No. 973.

*Mr. Strobel to Mr. Bayard.*

No. 270.] LEGATION OF THE UNITED STATES,
*Madrid, November* 2, 1887. (Received November 14.)

Sir: I have the honor to inclose the copy and translation of a note from the minister of state defining what the Spanish Government considers the liabilities of a Spaniard to military service who has been naturalized abroad and returns to his native country. This information was requested in pursuance of the Department's instructions No. 207 of June 29 last. In my own examination of the law reported in No. 241, of August 19, 1887, I assumed that the royal decree of November 17, 1852, quoted in Señor Moret's note, was a dead letter at present. Article 14 of the same decree gives the right to arrest any foreigner found in Spain without a passport, and article 25 prohibits any foreigner from residing in Spain who does not openly profess the Catholic religion, both of which provisions are to-day only interesting as relics.

It seems remarkable, therefore, that this question of liability to military service should be controlled by a decree of so antiquated a character, and when the special article quoted as the basis of the Government's opinion makes the sweeping statement that a "Spaniard naturalized in the territory of another power without the knowledge and authority" of his Government "shall not be exempt from the obligations belonging to his original nationality." Such a law would make a naturalized Spaniard not only liable to military service, but to every other original obligation to his native country.

I have, etc.,

EDWARD H. STROBEL.

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[Inclosure in No. 270.—Translation.]

*Mr. Moret to Mr. Strobel.*

MINISTRY OF STATE,
*Palace, October* 25, 1887.

EXCELLENCY: In reply to the legation note inquiring as to the responsibility of a Spaniard who becomes naturalized without having complied with the law of military service and returns to Spain in the character of foreigner, I have the honor to inform you that according to the information received from my colleague, the minister of the interior, who has been consulted upon the subject, the provisions of article 45 of the royal decree of November 17, 1852, referring to the rights and obligations of foreigners, are applicable. The following is the text of the decree:

"A foreigner naturalized in Spain and a Spaniard naturalized in the territory of another power without the knowledge and authority of their respective Governments shall not be exempt from the obligations belonging to their original nationality, although the Spanish subject in other respects loses the quality of Spaniard in accordance with the provisions of paragraph 5, Article I, of the constitution of monarchy.

I take advantage of this occasion, etc.,

S. MORET.

## No. 974.

### *Mr. Curry to Mr. Bayard.*

No. 279.] LEGATION OF THE UNITED STATES,
*Madrid, November* 19, 1887. (Received December 5.)

SIR: I have the honor to inclose a communication from the minister for foreign affairs, with translation, informing me that in case of discharged or substituted sailors sent home the certificate of the United States consulate will be sufficient and the visa heretofore required on their passports will be dispensed with.

I have, etc.,

J. L. M. CURRY.

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[Inclosure in No. 279.—Translation.]

*Mr. Moret to Mr. Curry.*

MINISTRY OF STATE,
*Palace, November* 4, 1887.

MY DEAR SIR: I have the honor to inform you that my colleague, the minister of the colonies, in a communication of the 25th ultimo, informs me that there is no objection to suppressing the requirement of the visa placed by the civil governor on passports of American sailors who after discharge or substitution are sent home to their country. In the future the certificates issued by the United States consulate will be sufficient and the above-mentioned customs will be suppressed.

In communicating to you the above in reply to the notes of the legation of December 27 of last year and of the 16th of last June, in proof of the interest with which the Government of Her Majesty tries to gratify as far as possible the wishes of the North American Government,

I avail, etc.,

S. MORET.

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## No. 975.

### *Mr. Curry to Mr. Bayard.*

No. 281.] LEGATION OF THE UNITED STATES,
*Madrid, November* 25, 1887. (Received December 12.)

SIR: I have the honor to inclose for information a royal order and the translation thereof, instituting additional regulations in reference to the inspection and possible destruction of imported lard and pork and prescribing fees for the service.

I have, etc.,

J. L. M. CURRY.

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[Inclosure in No. 281.—Translation.]

*Regulations for the importation of lard and pork.*

Circular.] MINISTRY OF INTERIOR,
*Madrid, November* 9, 1887.

For the proper execution of the provision contained in separate section II, Article 73, of the regulation of maritime health, in reference to inspection of pork and lard proceeding from the United States of America and Germany, the King (whom God may guard), and in his name the Queen Regent of the Kingdom, has been pleased to order the observance of the following regulations:

(1) The prohibition established by royal orders of 28th of February and 10th of

July, 1880, in regard to the importation into the peninsula and adjacent islands of lard proceeding from the United States of America which has not been melted, continues in force.

(2) Pork proceeding from the United States of America and Germany shall be submitted to a stringent and microscopical examination, to be made by the directors of maritime health, assisted, when the necessity of an immediate dispatch of the goods demands it, by the second physician of the bay and by the secretary (*secretario medico*).

Said examination shall be made in a place belonging to the custom-house or the director of health, in accordance with the opinion of the collector of customs, the director of maritime health being provided to that effect with a microscope which may magnify at least 100 diameters, and accessories, to be obtained at their own expense. In order to re-imburse themselves of these expenses, and as a remuneration for the service, they shall collect the following fees:

| Cases containing up to— | Pesetas. |
|---|---|
| 100 hams, for each case | 2.00 |
| 300 shoulders, feet, knees, or tongues, for each case | 1.50 |
| 30 pieces or flitches of bacon, with their muscular part, for each case | 1.50 |

The above-mentioned cases containing a number of pieces greater than the one put down shall pay, according to the fraction which may result, the proportionate part of the stated sums, with relation to the number of pieces of the fraction.

(3) Meats containing trichinæ shall be thrown into the sea at a convenient distance from the port and with due precautions.

The same destination shall be given to the lard not obtained through fusion when the parties concerned do not prefer re-exporting it.

(4) Lard obtained through fusion and bacon without muscular part are exempt from a microscopical examination, and therefore from the payment of fees.

(5) The royal order of the 14th of July ultimo, relative to this service, is abolished.

By royal order, I inform you of this for its exact fulfillment and for the knowledge of commerce and directors of health. This royal order is to be published in the official newspaper of that province.

God may guard you for many years.

LEON Y CASTILLO.

*To the Governors of the Maritime Provinces and General Commander of Ceta.*

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## No. 976.

### *Mr. Bayard to Mr. Curry.*

[Telegram.]

DEPARTMENT OF STATE,
*Washington, December* 8, 1887.

The Department of State informs Mr. Curry that it has been advised by the Spanish minister at Washington that the Spanish minister of foreign affairs is willing to extend until June 30, 1888, the commercial agreement now in force. Mr. Curry is therefore instructed to sign a protocol, as before, extending the agreement.

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## No. 977.

### *Mr. Curry to Mr. Bayard.*

No. 290.] LEGATION OF THE UNITED STATES,
*Madrid, December* 22, 1887. (Received January 3, 1888.)

SIR: On receipt of your telegram I at once sought an interview with the minister of state, and he agreed to prolong the commercial agree-

ment until June 30, 1888. The result was cabled "Agreement prolonged six months." I now have the honor of inclosing the protocol as signed by Mr. Moret and myself.

I have, etc.,

J. L. M. CURRY.

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[Inclosure in No. 290.]

*Protocol.*

The undersigned, in behalf of the Governments of Spain and of the United States, respectively, have agreed that the agreement between the Government of the United States of America and the Government of Spain for the reciprocal and complete suspension of all discriminating duties of tonnage or imposts in the United States and in the Islands of Cuba, Porto Rico, and Philippines, and all other countries belonging to the crown of Spain, upon vessels of the respective countries and their cargoes, shall be extended until the 30th of June, 1888, and shall continue in full force and effect until the time specified, unless it shall be superseded at an earlier day by treaty between the two Governments.

In witness whereof his excellency, S. Moret, minister of state, and J. L. M. Curry, envoy extraordinary and minister plenipotentiary of the United States of America, have hereunto set their hands and seals in the present instrument.

Done at Madrid this 21st day of December, in the year of our Lord 1887.

[SEAL.] J. L. M. CURRY.
[SEAL.] S. MORET.

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No. 978.

*Mr. Bayard to Mr. Curry.*

No. 262.] DEPARTMENT OF STATE,
*Washington, January* 26, 1888.

SIR: I desire to call your attention to a case which appears to be clearly in contravention of the commercial agreement with Spain which has lately been extended to June 30 next.

The American brig *J. W. Parker* (John W. Kane, master) entered at Zaza, Cuba, from a Spanish port in Porto Rico in ballast. On clearing from the former port with a cargo of mahogany, the master was compelled to pay, under protest, a duty of $1 per ton on the register tonnage of his vessel.

No Spanish vessel would be compelled to pay such an amount; indeed, as shown by Mr. Williams's No. 340, of January 28, 1886 (see Foreign Relations, 1886, pp. 783, 784), the charge on a Spanish vessel under similar circumstances would be 25 cents per ton.

Copies of the papers are inclosed, and you are requested to present the case to the Spanish Government and to ask the repayment of the excess of duties exacted from Captain Kane.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 262.]

*Mr. Kane to Mr. Bayard.*

NEW YORK, *January* 16, 1888.

SIR: I beg to call your excellency's attention to the following case: On my clearing the brig *J. W. Parker* from the custom-house at Zaza, Cuba, I was charged $1 per ton on the register tonnage of my vessel. This charge is, according to treaty recently

concluded between Spain and the United States, uniawful, and I protested against it, a copy of which I inclose, together with certificate from the custom-house for the tonage dues; it is also contrary to instructions received from United States consul-general at Havana, who informed me that I should pay 25 cents per ton on my cargo. I entered in ballast from a Spanish port of Porto Rico, and cleared with a full cargo of mahogany and cedar. Will your excellency take the necessary steps to recover the amount I have paid in excess of what would have been a lawful tonnage due and be kind enough to inform me of the fact?

The amount I paid was $361.

Respectfully yours,

JOHN W. KANE.

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[Inclosure 2 in No. 262.]

*Protest of Mr. Kane.*

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,
*Zaza, December 27*, 1887.

On this 27th day of December, 1887, before me the undersigned, consular agent of the United States of America for Zaza and dependencies thereof, personally appeared John W. Kane, master and owner of the brig called the *J. W. Parker*, of New York, and says: He being charged $1 per ton on the register tonnage of his vessel at the above-named port of Zaza by the custom-house authorities, which is against the memorandum of agreement between Spain and the United States, dated the 21st day of September last, and also against instructions received this day from the consul-general at Havana, dated the 22d instant, and after stating the facts contained in the foregoing premises hath protested like as by these presents, I, the said consular agent, at his special instance and request, do publicly and solemnly protest against paying the same as being an unlawful charge.

In testimony whereof the said John W. Kane hath hereunto subscribed his name, and I, the said consular agent, set my hand and affixed the seal of office the day and year next above written.

[SEAL.]

SINESIO R. BALLESTA,
*United States Consular-Agent.*

JOHN W. KANE,
*Master.*

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[Inclosure 3 in No. 262.—Translation.]

*Receipt of the collector of customs.*

Don José Ruiz Gaitero, 5th administrative officer, collector of customs at this port, acting collector.

I certify that Don Alejo Girond, consignee of the American schooner *J. W. Parker*, J. W. Kane, captain, has paid at this subaltern office the sum of $361.14, for amount of tonnage dues of said vessel, at the rate of $1 per ton, according to regulation 6, for which payment the corresponding receipt was given to him.

And at the request of the interested party, and for the ends that may ensue, I issue these presents at Tunas de Zaza, this 27th day of December, 1887.

JOSÉ RUIZ,
*Acting Collector.*

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## No. 979.

### *Mr. Bayard to Mr. Curry.*

No. 266.] DEPARTMENT OF STATE,
*Washington, February* 11, 1888.

SIR: Referring to my No. 262, of the 26th ultimo, concerning the discriminating duty levied at Zaza, Cuba, upon the American brig *J. W. Parker*, I inclose a dispatch from our consul at Cienfuegos relating to the subject.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 266.]

*Mr. Ehninger to Mr. Rives.*

No. 53.] UNITED STATES CONSULATE,
*Cienfuegos, January* 18, 1888.

SIR: I have the honor to report that the American brig *J. W. Parker*, John W. Kane, master, arrived at the port of Tunas de Zaza (a dependency of this consulate), early last month proceeding from the island of Puerto Rico, in ballast, and after loading at that port a cargo for the United States, the customs authorities, before allowing her to clear, enforced the payment of tonnage dues at the rate of $1 per ton of register, this being the rate according to the tariff laws of 1870 for vessels arriving in ballast and leaving loaded. These tariff laws were modified in 1883 with respect to Spanish vessels arriving at ports in the island of Cuba, from ports in the peninsula of Spain, or colonial possessions thereof, which vessels are by the modification subject to the payment of tonnage dues at the rate of 25 cents per ton of cargo exported.

The island of Puerto Rico being a Spanish possession, the modification of tariff referred to applies to Spanish vessels proceeding from its ports to those of Cuba; and as by the agreement signed at Washington on September 21, 1887, no discriminating duties are to be levied on vessels of the United States coming to ports of Cuba from those levied on Spanish vessels, it follows that the exaction of a rate of tonnage duty in the case of the *J. W. Parker*, different from that which would have been levied on a Spanish vessel under similar circumstances, is a direct violation of the agreement alluded to.

The master of the *John W. Parker* appealed for his rights through the United States consular agent at Zaza, but being refused them, had to pay the duty as exacted (viz, at the rate of $1 per ton of register). He entered a protest (copy of which I have the honor to inclose herewith) and cleared with his vessel for the United States.

I have, etc.,

HENRY A. EHNINGER.

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[Inclosure 2 in No. 266.]

*Protest of Mr. Kane.*

UNITED STATES CONSULAR AGENCY,
*Zaza, December* 27, 1887.

This day before me the undersigned, consular agent of the United States for Tunas de Zaza, personally appeared John W. Kane, master and owner of the American brig *J. W. Parker*, of the burden of 361.14 tons, or thereabouts, and declares as follows: That on or about the 7th day of November, 1887, he arrived with his vessel at the port of Viques, in the island of Puerto Rico, and after discharging a cargo of provisions proceeding from the United States, he proceeded to the port of Zaza, in the island of Cuba, in ballast, arriving there on the 5th day of December, 1887. That in Zaza he took on board a cargo of 133,521 feet of cedar, 71,956 feet mahogany, 150 bags of sugar, and 100 hides, and when loaded and ready to sail, on proceeding to pay the tonnage dues the custom-house authorities exacted payment of the same at the rate of $1 per ton of register, being a different rate from that charged to Spanish vessels arriving from possessions of Spain, which are charged at the rate of 25 cents per ton of cargo on outward cargo, and inasmuch as the agreement entered into between the United States of America and Spain on the 21st day of September, 1887, stipulates that no discriminating duties shall be levied upon American vessels, he considers that the exacting of the payment of tonnage dues at the rate of $1 per ton of register in his case is a violation of the agreement aforesaid; wherefore he, the said John W. Kane, does hereby solemnly protest, and I, the said consular agent of the United States of America, at his special instance and request, do join him in protesting against the payment of the said charge of $1 per ton of register, and against the customs authorities of this port of Zaza for the enforcement of the same, and against all and every person and thing concerned in the enforcement of the same, believing it to be an unjust and unlawful charge, and that the same ought to be refunded by the said customs authorities to the extent of the excess collected over and above the rate of 25 cents per ton of cargo, the same as is collected of Spanish vessels under similar circumstances.

In testimony whereof the said John W. Kane has hereunto subscribed his name, and I, the said consular agent, have set my hand and affixed my seal of office the day and year above written.

[SEAL.] SINESIO R. BALLESTA,
*United States Consular Agent.*

JOHN W. KANE,
*Master of brig J. W. Parker.*

No. 980.

*Mr. Bayard to Mr. Curry.*

No. 271.] DEPARTMENT OF STATE,
*Washington, February* 28, 1888.

SIR: Referring to previous instructions which have been sent to you from time to time in regard to discriminations said to be still practiced against American vessels in the Spanish West Indies, I now desire to call your attention to some general considerations in regard to this subject.

From the time of the signature of the provisional commercial agreement of January 2 and February 14, 1884, until now, and notwithstanding the successive changes introduced in that *modus vivendi* by the agreements signed October 27, 1885, and September, 1887, and which were designed to remove discriminations that had become noticeable in the practical working of the measure, it has been repeatedly represented to this Department, on behalf of American ship-owners, that a residual discrimination exists in the treatment of American steamers plying between the United States and ports of the island of Cuba and Spanish steamers making the same trips as an incident of a round-trip voyage from a peninsular port.

By an instruction (No. 311, of October 25, 1887) the consul-general of the United States was made acquainted with the precise statements in this regard, made by Messrs. James E. Ward & Co., agents for the New York and Cuba Mail Steam-ship Company, and directed to investigate the matter thoroughly and conclusively.

The report of Consul-General Williams makes it quite clear that, while the Government of the United States is, under the existing commercial agreement, exempting Spanish vessels in the ports of the United States, when coming from the Antilles, from all discriminating duties, on the assurance that our vessels in Antillean ports are treated on the basis of perfect equality, the Spanish rule, in point of fact, gives to the steam-vessels engaged in the same traffic and flying the flag of Spain, under certain conditions, a valuable exemption.

It appears from Mr. Williams' report, and the accompanying papers, that Spanish mail-steamers or Spanish steamers making regular trips from Spain in less than twenty days are entirely exempt from the payment of both inward and outward tonnage dues, even when entering from or clearing to other than a Spanish port; so that a Spanish steamer coming from Spain with cargo enters a Cuban port without paying tonnage, and after discharging cargo there takes on cargo for a port of the United States and clears without payment of any tonnage dues. The same thing occurs on the return trip; the steamer leaving the United States with cargo enters a port of the island of Cuba and clears therefrom for Spain without paying any tonnage dues whatever, either inward or outward. On the other hand, a regular trading steam-ship, under the flag of the United States, entering and clearing from a Cuban port in the course of its trips from and to the United States, pays 62½ cents per ton upon the net register tonnage when the inward and outward cargo jointly exceed the net register.

With the treatment by Spain of its vessels engaged in trade between Spanish ports this Government has as little concern as Spain could have in regard to the treatment of vessels of the United States, and this wholly irrespective of any incidental foreign voyage which may be made in the course of a round trip. But it is unquestionable that, to

insure a real equality of treatment, an American and a Spanish vessel making the voyage side by side between a port of the United States and a port in Cuba, must be treated alike at each end of the voyage. In other words, the particular voyage, or part of a general round voyage, in which the two flags come into competition, is that which the agreement between the two countries aims to equalize, and as to this voyage no inequality or discrimination can be introduced because of any other voyage or voyages whatsoever not coming within the purview of the international agreement.

It would appear that the Spanish treatment of the steam-ships of Spain, exempting them from all tonnage dues when clearing for or arriving from a port of the United States *en route* from or to the Peninsula, is based upon the interpretation given to article 5 of the existing customs tariff of the island of Cuba, which reads as follows:

ART. 5. Steamers nationalized in Spain and making regular trips between this island and the ports of the Peninsula and Puerto Rico, not belonging to the subsidized lines, are exempt from tonnage dues. To enjoy this benefit the duration of the regular trips must not exceed twenty days from the port of Havana to those of the Peninsula, and *vice versa*, and four days from Puerto Rico, respectively; a periodic trip being understood as one performed at least once a month, *from which is to be discounted the time consumed in touching at intermediate ports.*

It is not apparent how this article can be applied to work the discrimination to which attention is now invited, unless in the assumption that the voyage of the Spanish steamer is made to a port of the United States as an intermediate port of call between Havana and the Spanish Peninsula (and with deduction of the time the voyage is lengthened by reason of such digression), or in the still more violent assumption that the excursion is made from Havana to the United States and back to Havana without interfering with the periodicity or computed duration of the trip between the Peninsula and Havana.

The fallacy of the latter assumption needs no argument for its demonstration, since any such to-and-fro excursion to a foreign port from Havana can never be to a point intermediate on the journey between Havana and the Peninsula. Such an excursion must be regarded as wholly complete by itself, and without the slightest regard to any prior or subsequent condition growing out of the engagement of the vessel in the domestic carrying trade between Spanish ports. The total exemption of a vessel making such an excursion from payment of dues, which must be paid by a vessel of the United States making a similar voyage side by side with its Spanish competitor, is so palpable a contravention of the condition of "perfect equality" stipulated by the agreement, that it is not believed possible to explain or justify it.

The first assumption, however, merits more extended notice. It would even cover the case of a somewhat numerous class of steam-vessels which has grown up within the last decade or two, and to which the name of "ocean tramps" has been applied. A steam-ship of this class, under the assumption that intermediate foreign calls are to be deducted from the time allowed, might, after leaving a peninsular port, rove about at will from one foreign port to another, and yet, if at any time touching at Havana before returning to Spain, would have the privilege of free entry and free clearance at Havana. That this is incompatible with the stipulated "perfect equality" of treatment with a vessel of the United States is self apparent, for the Spanish steamer receives, for that particular section of her general voyage lying between Havana and any port of the United States, a favor which is withheld from an American steamer, and which is never at any time before or

after equalized by any dues levied under Spanish law or any favor accruing under Spanish regulation to the American steamer.

Besides the question thus stated, which relates to Spanish steamers, not regularly subsidized, but making so-called periodical monthly trips between Havana and the Peninsula, the report of the consul-general at Havana shows conclusively that two other discriminations exist in respect of United States vessels engaged in the Antillean trade.

A Spanish sailing vessel arriving in Cuba from another Spanish port pays per ton on inward cargo 37½ cents, and on outward cargo on clearing for the United States 25 cents per ton. A vessel of the United States pays on the combined inward and outward cargo $1.35 per ton, or at the rate of 67½ cents each way.

Here again is an illustration of the illogical policy of favoring a Spanish vessel setting out on a foreign voyage because of a prior voyage in the reserved domestic trade; for it is clear that if the American and Spanish ships set out side by side from an Antillean port towards an American port, the 25 cents per ton paid by the Spanish ship is considerably less than the share of the total tonnage dues paid by the American corresponding to the outward part of her voyage, viz: 67½ cents. This is not balanced by any differential treatment on the return voyage from the United States to the Antilles, for the total outward and inward dues of such a Spanish vessel in respect of her excursion to and from a port of the United States does not amount to the $1.35 paid by an American vessel for inward and outward tonnage dues on a similar round voyage.

Again, a Spanish vessel arriving in Cuba in ballast from Puerto Rico, pays, on clearing with cargo for a port of the United States, dues to the amount of only 25 cents per ton; whereas an American vessel entering a port of Cuba in ballast and clearing to make the same voyage as the Spanish vessel must pay 62½ cents per ton.

There may be other instances of discrimination than those mentioned in Mr. Williams's report, and, from the circumstance that they all arise in the case of vessels coming to Cuba from another Spanish port, it is probable that in other instances also an analogous favor, springing from the prior domestic voyage of a vessel, follows her in her outward voyage to a foreign port, which is not subsequently made up by any differential Spanish impost, and which operates as an actual discrimination *for that outward foreign voyage* against a vessel of the United States making the same voyage side by side with its Spanish rival.

The matter is one of considerable importance, inasmuch as the continuance of the President's proclamation suspending all differential duties on Spanish vessels and their cargoes in the ports of the United States is in terms dependent upon the continuance of equal treatment of American and Spanish vessels in the ports to which the proclamation relates.

Copies of the instruction of this Department to Consul-General Williams, and of his report, with their respective annexes, are herewith inclosed for your use in preparing such a full and clear presentation of this matter to the Government of Her Majesty the Queen Regent as will demonstrate the need of an actual reciprocity of equal treatment of Spanish and American vessels in the ports of the Antilles and give satisfactory proof that it does exist, in default of which proof the statutory obligation of rescinding his proclamation would rest upon the President. The form and details of such presentation are confidently left to your good judgment.

Previous instructions of the Department in relation to the general

subject of equality of treatment may be drawn upon to aid you in your task. You will observe that Mr. Williams' report refers particularly to his previous dispatches, No. 340, of January 28, 1886; No. 350, of February 23, 1886; and No. 624, of April 26, 1887. Of these No. 340 was copied to you with my instruction No. 40, of February 24, 1886, and No. 350, was sent as an inclosure with my No. 614, of May 26, 1886. Copy of Mr. Williams's No. 624 is hereto appended for your fuller information.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 271.]

*Mr. Adee to Mr. Williams.*

No. 311.] DEPARTMENT OF STATE,
*Washington, October* 25, 1887.

SIR: I transmit herewith for your perusal a copy of a letter, dated the 19th instant, from Messrs. James E. Ward & Co., agents for the New York and Cuba Mail Steamship Company. You will gather from this letter that the above-named company claims that its steamers clearing from the port of Havana for New York have been subjected to heavier tonnage tax than Spanish steamers clearing from Havana for New York immediately after a voyage to Havana from a Spanish port; and that this discrimination is in violation of the arrangement for equalization of tonnage dues.

It seems that there are two dissimilar and non-comparable methods of assessing tonnage dues in existence in Cuban ports; by one of which Spanish, and by treaty American, steam-ships, making regular trips between Cuban and non-Spanish ports, pay on each visit to a Cuban port 62½ cents per ton registered capacity; by the other, registered Spanish steam-ships making regular trips between Cuban and Spanish ports under certain conditions, enter Cuban ports free of tonnage tax, and pay on clearing for any port 25 cents per ton on each ton of cargo carried out.

The complainants state that registered Spanish steam-ships, having entered a Cuban port free of tonnage tax under the domestic trade regulations, take on a cargo for the United States, on which they pay a clearance due of 25 cents per ton; whereas American steam-ships, thus brought into competition with the favored Spanish vessels, are required to pay 62½ cents per ton registry; the result being, say Messrs. Ward & Co., a discrimination of 37½ cents per ton in favor of the Spanish vessel for that voyage, which is not made up on the return voyage, and which is therefore contrary to agreement.

It is clear that if there is a substantial discrimination against the American steamship at the beginning of the voyage outward from Cuba, it is never made up, and is a permanent loss. But the Department is unable, without further information, to make an intelligent comparison of the two systems of tonnage taxation in their practical working.

It is conceived that there will, except in accidental cases, be some inequality in a tax of 62½ cents per ton registered capacity and a tax of 25 cents per ton of cargo carried out; but it is impossible, in the present state of the Department's information, to determine in what direction the inequality operates, and which class of vessels is thereby put at a disadvantage.

You are therefore instructed to report fully upon this point: First, as to the correctness of the Department's conception of the law; and, secondly, as to its practical operation upon the interests of American steam-ships engaged in the carrying trade between Cuban and United States ports.

I am, etc.,

ALVEY A. ADEE,
*Second Assistant Secretary.*

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[Inclosure 2 in No. 271.]

*Messrs. Ward & Co. to Mr. Bayard.*

NEW YORK, *October* 19, 1887.

SIR: Referring to the memorandum of agreement between your good self and the Spanish minister, dated September 21, we respectfully submit for your consideration the following facts:

According to the laws in force in the Island of Cuba any steamer coming to Cuba

from Spain that makes the voyage in less than twenty days pays no tonnage due at all if she loads again for Spain, but if she loads for a foreign port, she only pays tonnage dues on her outward cargo at the rate of 25 cents per ton.

The steamers that run from Spain to Cuba, owing to the scarcity of cargo in Cuba for Spain, frequently load in Cuba for ports in the United States, and thus come into direct competition with American steamers, having the advantage over American steamers that they pay only 25 cents per ton on the cargo they bring to the United States, while an American steam-ship loading sugar or other cargo in Cuba for the United States pays 62½ cents per ton; thus the Spanish steamers loading in Cuba for the United States have an advantage under "similar circumstances" over the American steamers of 37½ cents per ton.

To illustrate the facts stated we will cite a case in point. The Spanish steamer *M. M. Pinillos*, which arrived in Cuba from Spain in August last made the passage in less than twenty days, and was therefore entitled to the reduction in tonnage dues above recited. She came into the market in direct competition with the regular American lines owned by Messrs. F. Alexander & Sons and ourselves, and secured a cargo of 25,000 bags of sugar for New York. This lot of sugar would weigh 4,000 tons, on which the Spanish steamer paid $1,000 tonnage dues, and on which, had we taken it, we would have had to pay $2,500, thus having an advantage over an American steam-ship in a few days' passage of $1,500, and which, at the present rate of freight, say 8 cents per 100 pounds, is about one-quarter of the total freight money earned for carrying the 25,000 bags.

We respectfully submit that the Spanish Government are therefore discriminating in favor of their own steamers as against American steamers, and would request that you take the necessary steps to place us on an equal footing with Spanish steamers coming into direct competition with us, which we claim we are entitled to by virtue of the agreement of September 21, 1887, previously referred to.

We remain, etc.,

JAMES E. WARD & CO.

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[Inclosure 3 in No. 271.]

*Mr. Williams to Mr. Rives.*

No. 740.] UNITED STATES CONSULATE-GENERAL,
*Havana, December 22*, 1887.

SIR: I have now the honor to reply to the Department's instruction number 311 of the 25th of last October, wherein was inclosed a copy of the letter of Messrs. James E. Ward & Co., of the 19th of the same month, complaining of the defective execution here by the insular authorities of the memorandum of agreement concluded at Washington, on the 21st of September of the present year, between the honorable Secretary of State and the minister plenipotentiary of Spain.

Accordingly, and in fulfillment of the Department's instructions, I annex herewith the following inclosures corroborative of this report:

Inclosure No. 1 is a certified copy of the original invoice here on file, which was presented for consular certification to this office on the 3d of last September by the shippers, Messrs. Hidalgo & Co., of the 25,000 bags of sugar then carried to New York by the Spanish steamer *Miguel M. Pinillos*. The presentation herewith of this invoice confirms, by the fact itself, the statement of Messrs. James E. Ward & Co., as to the amount of cargo carried to the United States by that Spanish steam-ship on its trip to New York from Havana last September.

Inclosure No. 2 is a copy of the original Spanish communication addressed by me to the collector of the port of Havana on the 17th instant, wherein I asked him to be pleased to inform me of the rate of tonnage dues collected here from Spanish sailing vessels arriving from Spain, and leaving here afterwards in continuation of their voyages, loaded with cargo for the United States; as also with respect to the tonnage dues paid here by Spanish steamers making periodical trips to this island in less than twenty days from Spain, and then leaving here loaded for the United States in continuation of their voyages; as likewise, to be informed if the said Spanish steamship *Miguel M. Pinillos*, on its voyage from Havana to New York on the 5th of last September paid tonnage dues or not; and, if it paid them, under what article of the Cuban tariff were they collected; and, if it did not pay them, by what article of the same tariff was it exempted therefrom.

Inclosure No. 3 is the English translation thereof.

Inclosure No. 4 is a copy of the original communication of the collector of the port of Havana in answer to mine of the same date, and No. 5 is the English translation thereof. As you will please observe, the collector in this communication even more than confirms all the statements of Messrs. James E. Ward & Co., viz: First, that

Spanish sailing vessels on leaving the ports of Cuba loaded for the United States only pay 25 cents for each gross ton of 1,000 kilos of cargo taken on board when they arrive from Spain; second, that Spanish steamers making regular trips from Spain in less than twenty days, are free from the payment of tonnage dues on leaving the ports of Cuba loaded for the United States; third, the Spanish steamer, *Miguel M. Pinillos*, referred to by Messrs. James E. Ward & Co., paid no tonnage dues whatever; became exempted by Article 5 of the regulation, dictated the 16th of October, 1883, in fulfillment of the royal order of the 25th of August of that same year.

As likewise pertinent and elucidative of this subject, I beg to annex extracts of my dispatches No. 340 of the 28th of January and of No. 350 of the 23d of February of last year, 1886, as well as of No. 624 of the 26th of April of the present year, 1887, in each of which I mentioned the existence of these practices, now complained of as discrimination by this American firm of ship-owners.

Dispatch No. 624, above cited, as will be noticed, was based upon the complaint of the master of the American schooner *Mattie B. Russell*, of Portland, Maine, who mistakenly claimed that the agreement made at Washington, October 27, 1886, between the United States and Spain, provided for an absolute equality in the ports of Cuba between American vessels arriving here from the United States and Spanish vessels arriving here from Spain. But upon inspection of that agreement it will be found, as I showed in that dispatch, that it did not include the case presented by the master of the schooner *Mattie B. Russell*, for that was one pertaining exclusively to the coastwise trade of Spain as much so as a voyage from New York to San Francisco, California, *via* Cape Horn or the Straits of Magellan pertains to the coastwise trade of the United States.

The present complaint of Messrs. James E. Ward & Co., however, is one of an entirely different nature, treating as it does exclusively of the trade between the United States and Cuba and Spain. In this case it will be perceived that Messrs. James E. Ward & Co. claim that the present agreement made at Washington on the 21st of last September between the United States and Spain in substitution of that of the 27th of October, 1886, provides for an absolute equality in the ports of Cuba, between American and Spanish vessels trading from the United States to Cuba, and conversely from Cuba to the United States or any other foreign country.

Now, in order to show that the discriminations complained of by Messrs. James E. Ward & Co., and upon which the Department instructs me to report, are practiced here in accordance with the said article 5 of a customs law of Cuba, and admitted by the collector of the port of Havana in his communication of the 17th instant already referred to and herewith annexed, I beg to wait upon you with the following comparison of the tonnage dues paid here by American sailing vessels trading between Cuba and the United States, with Spanish vessels trading between the same two countries, when the latter vessels arrive with cargo inward from Spain.

COMPARISON.

An American vessel of 500 tons *pro forma* net register, pays tonnage on inward and outward cargo in the ports of Cuba at the rate of $1.35 per ton on 500 tons net register, or say $675. But a Spanish vessel of 500 tons *pro forma* net register coming loaded from Spain pays on inward cargo at 37½ cents ($187.50) and on leaving Cuba for the United States pays on the 500 tons net register at the rate of 25 cents, or say $125; or a total of $312.50.

Consequently, instead of the observance here by the customs authorities of an absolute equality of tonnage dues between Spanish and American vessels trading between Cuba and the United States as stipulated for by the honorable Secretary of State with the minister plenipotentiary of Spain in the memorandum of agreement done at Washington the 27th of September last, an inequality of upwards of 100 per cent. is wrought by the operation of the 5th article of the customs law cited by the collector of the port as the source of authority in this case, in favor of Spanish sailing vessels and against American sailing vessels of $362.50.

Further, in the case of Spanish regular trading steam-ships coming loaded from Spain to Cuba in less than twenty days, and then loading here for the United States, the inequality against American steam-ships is immensely greater; for in this case Spanish steam-ships are free of the payment of all tonnage dues, whilst the regular trading American steam-ships pay 62½ cents per ton upon the net register tonnage when the inward and outward cargo jointly exceed the net register. In illustration of this point, as you will please notice, I cited in my dispatch number 340 the instance of the regular Spanish steam-ship *Hernan Cortes*, which brought 1,460 tons of cargo from Spain, and then, in the continuation of its voyage, took in 2,100 tons of cargo for the United States without paying any tonnage dues whatever; whereas a regular American steam-ship in this case, had the joint inward and outward cargo not exceeded its register tonnage, would have had to suffer an inequality of $2,225.

Also, in the case of the regular trading Spanish steam-ship *M. M. Pinillos*, men-

tioned by Messrs. James E. Ward & Co., it will be perceived that the inequality is even much greater than stated by them; for instead of paying $1,000, as they supposed, it really came loaded and left loaded, scot free, having paid no tonnage dues whatever, as will be seen from the perusal of the said communication, dated the 17th instant, of the collector of the port of Havana, hereto annexed.

In conclusion, and reducing the inequalities of the case down to their prime terms, I beg most respectfully to express the opinion that they arise from the irreconcilable difference of meaning existing between section 4228 of the Revised Statutes of the United States, and article 5 of the Spanish Law of Commercial Relations, herewith accompanied as inclosure number 6, and form, therefore, separately a subject to be considered in connection with the "satisfactory proof" required to be given under the above-mentioned section of the Revised Statutes of the United States, by every foreign government upon the solicitation of the suspension of the retaliatory duties of the United States in accordance with the said statute.

I am, etc.,

RAMON O. WILLIAMS.

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[Inclosure 4 in 271.]

*Certified copy of Invoice No.* 5128.

HAVANA, *December* 22, 1887.

Invoice of 25,000 sacks sugar shipped pr. S. S. Miguel M. Pinillos, Roldo's Mr., bound to New York, for account and risk of whom it may concern, and consigned unto order.

CENTRIF. SUGAR.

| | | |
|---|---|---|
| Z. $25,000=25,000 sacks, wg. gross | 7,694,065 lbs. | |
| 1 per cent. tare | 76,942 | |
| Net | 7,617,123 lbs. at 3c per lb. | $228,513.70 |
| Less freight at 8c per 1,000 lbs. net. Invo. wt. | | 6,093.70 |
| Net cost f. o. b. including all chs. and commis. U. S. curry | | 222,420.00 |
| E. & O. E. Havana Sept. 3d, 1887, at 11¼ per cent. P. Equivalent to Sph. gold | | 247,442.23 |

HIDALGO & CO.

CONSULATE-GENERAL OF THE UNITED STATES,
*Havana:*

I, the undersigned, Consul-General of the United States of America at Havana, do hereby certify that the foregoing copy of an invoice, together with the usual consular certificate authenticated in triplicate and numbered 5128 on the 3d day of September for New York per steamer *Miguel M. Pinillos* and on file in this office is a true and faithful copy of said original; the said copy having been carefully compared and collated therewith and found to agree word for word and figure for figure.

Given under my hand and official seal this 22d day of December, 1887.

[SEAL.] RAMON O. WILLIAMS,
*Consul-General*

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[Inclosure 5 in No. 271.]

*Mr. Williams to Mr. de la Torre.*

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Havana, December* 17, 1887.

SIR: In order to be enabled to reply directly to an instruction received from my Government, I beg you to be pleased to inform me what tonnage dues Spanish sailing vessels pay on arriving in the ports of this island from Spain, and which afterwards sail, in continuation of their voyages, loaded for the United States, also as to what tonnage dues are paid here by Spanish steamers, making periodical trips from Spain to Cuba in less than twenty days, upon leaving likewise loaded for the United States, as well also to be informed at the same time if the Spanish steamer *Miguel M. Pinillos* paid tonnage dues or not on its trip from Havana to New York on the 5th of September last; and if it did pay them, under what article of the Cuban tariff; and if not, then I will thank you also to inform me under what article of the said tariff it was exempted.

I am, etc.,

RAMON O. WILLIAMS.

[Inclosure 6 in No. 271.—Translation.]

*Mr. de la Torre to Mr. Williams.*

OFFICE OF THE COLLECTOR OF CUSTOMS,
*Havana, December* 17, 1887.

SIR: Replying to your attentive communication of to-day, I have the pleasure to inform you that Spanish sailing vessels arriving in the ports of this island from Spain, and afterwards sailing loaded with cargo for the United States, pay their tonnage dues on arriving here at the rate of 37½ cents for each ton of 1,000 kilos discharged and 25 cents for each ton of 1,000 kilos of outward cargo (for the United States). Regular Spanish steamers making the trip in less than twenty days from Spain to this island enjoy an absolute exemption from tonnage dues both upon inward cargo from Spain and outward cargo for the United States.

The Spanish steamer *Miguel M. Pinillos*, referred to, paid no tonnage dues, because embraced in article 5 of the regulation dictated on the 16th of October, 1883, in conformity with the royal order of the 25th of August of the same year.

God guard you many years.

ALFONSO DE LA TORRE.

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[Inclosure 7 in No. 271.—Translation.]

*Extract from the customs tariff of the Island of Cuba.*

ART. 5. Steamers nationalized in Spain and making regular trips between this island and the ports of the Peninsula and Porto Rico not belonging to the subsidized lines are exempt from tonnage dues. To enjoy this benefit the duration of the regular trips must not exceed twenty days from the Port of Havana to those of the Peninsula, and *vice versa*, and four days from Porto Rico, respectively; a periodic trip beirg understood as one performed at least once a month, from which is to be discounted the time consumed in touching at intermediate ports.

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[Inclosure 8 in No. 271.—Translation.]

*Mr. de la Torre to Mr. Williams.*

HAVANA, *December* 6, 1887.

SIR: In reply to your attentive letter of the 5th instant, I have the honor to inform you that Spanish vessels arriving here from Puerto Rico in ballast and sailing afterwards loaded with sugar for the United States, pay tonnage dues at the rate of 25 cents for each 1,000 kilos gross, excepting those Spanish steamers of periodical trips, which enjoy an exemption from their payment.

The tonnage dues collected in Puerto Rico do not serve as a basis at all in this island, because of the different manner in which they are collected.

God guard you many years.

ALFONSO DE LA TORRE.

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[Inclosure 9 in No. 271.—Translation.]

*Mr. de la Torre to Mr. Williams.*

OFFICE OF THE COLLECTOR OF CUSTOMS,
*Havana, April* 18, 1887.

SIR: In reply to your attentive letter of the 15th instant, relative to the tonnage dues paid in this island on American and Spanish vessels, I have to say that this office has interpreted and continues to interpret the operations belonging to this subject by a strict literal adherence to the royal order of the 9th of July, 1868, which concedes an equality with Spanish vessels in the payment of tonnage dues to the vessels of all those nations that grant the like privileges in their respective territories, this practice having been successively extended not only to the nation you so worthily represent, but to France, Germany, England and all its colonies, Sweden and Norway, Holland and its colonies, Denmark, Belgium, Austria and Hungary, Italy, Greece, Russia, Finland, and Mexico.

The law of commercial relations between Spain and its colonies was promulgated in this island on the 20th of July, 1882, in which several distinct forms are established for the collection of tonnage dues.

Consequently, in view of the orders cited, the only ones now ruling, I proceed to answer the questions you have been pleased to address me relative to the case.

Upon the first: If the vessel is not a regular Spanish mail-carrying steamer she pays for each ton of inward cargo discharged, 37½ cents; and for each ton of outward cargo loaded, whatever may be the country or port of destination, 25 cents.

If the vessel is a regular Spanish mail-carrier, and makes the trip from the Peninsula to this port in less than twenty days, it will be entirely exempt from the payment both of inward and outward tonnage dues.

Upon the second: In this case, sailing vessels will pay the same tonnage dues expressed above, steamers enjoying the like exemptions. (See dispatch No. 632, dated May 9, 1887.)

Upon the third: If the Spanish vessel is not a regular Spanish mail-carrying steamer, and comes in and goes out loaded, she then pays on her net register measurement at the rate of $1.35 per ton.

If she arrives with cargo and leaves in ballast, $1.30.

If she arrives in ballast and leaves loaded, $1.

If she arrives in ballast and leaves with a full cargo of molasses, 37½ cents.

If she arrives in ballast and loads part of a cargo of products of the island, she will then pay tonnage dues upon the number of tons of cargo loaded at the rate of $1, and upon the remaining empty space 5 cents.

If she enters and leaves in ballast, 5 cents.

If she brings coals up to or beyond her register tonnage then she pays no tonnage dues.

If she brings coals in a less quantity than her register measurement, and no other cargo, she will then pay upon her unoccupied space at the rate of 62 cents.

If she arrives partly loaded with coals, and the rest of her space with other cargo, she will pay upon the tonnage occupied by coals 73 cents per ton and upon the other cargo, up to her register tonnage, $1.35.

When the vessel is a regular Spanish mail carrier, tonnage dues will be collected on the sum of the tons of cargo imported and exported when not exceeding net register tonnage, 62½ cents, and if exceeding it, tonnage dues will be collected only on her measurement. American mail carriers pay the same tonnage dues.

Upon the fourth. In this case Spanish vessels pay the same tonnage as expressed in article 3, American vessels being entirely upon the same footing.

Upon the fifth. In this case they pay the same tonnage dues as Spanish vessels, and in the same conditions as expressed in article 3, American vessels being entirely upon the same footing.

Upon the sixth. In this case, according to a superior order lately issued, 25 cents upon the tons of cargo loaded in port, regardless of the port of destination, and free of tonnage dues if the vessel leaves port in the same condition under which it entered.

*Note by Mr. Williams.*—By the answers of collector of the port of Havana, as given above, it will be observed, in the cases of Spanish sailing vessels and Spanish steamers arriving in the ports of Cuba from Spain, that the first only pay at the rate of 25 cents per ton for tonnage dues when clearing loaded for the United States, and that the second, when clearing in the same condition for the United States, are entirely free from their payment if the trip has been made from Spain to Cuba in less than twenty days. I called the attention of the Department to this fact in my dispatch No. 340, of January 28, 1886. I again beg to present it, in case it should, in the judgment of the Department, constitute an exception or discrimination against American vessels under the stipulations of the agreement with Spain, dated Washington, 27th October, 1886, or of section 4228 of the Revised Statutes of the United States.

[Inclosure 9 in No. 271.]

*Mr. Williams to Mr. Porter.*

No. 624.] UNITED STATES CONSULATE-GENERAL,
*Havana, April* 26, 1887.

SIR: Referring to the Department's instruction, No. 246, dated the 24th of January last, receipt of which I acknowledged the 8th of February, and wherein were inclosed a copy of a dispatch, No. 42, of December 23, 1886, from our commercial agent at Cardenas, and another of a protest made by S. A. Larrabee, master of the American schooner *Mattie B. Russell*, of Portland, Maine, against the rate of $1.35 per ton, at

which the collector of customs at the port of Cardenas charged the tonnage dues on said vessel, and which were sent me for investigation, I beg to report now as follows:

In this contention it is to be particularly noticed that the master of the schooner *Mattie B. Russell* rests his protest upon the claim that the agreement between the United States and Spain, signed at Washington, October 27, 1886, distinctly states that "all discriminating rates on American vessels are done away with in Cuba, declaring absolute equality of American vessels from the United States with Spanish vessels from Spain, which latter pay 37½ cents per 1,000 kilos on their inward cargo and 25 cents per 1,000 kilos on their outward cargo in Spanish gold."

A confrontation of the protest of the master of this schooner with the agreement itself, will show that he has not only misquoted its text, but has, also, misapprehended the scope of its meaning.

Article 1 of the agreement declares:

"It is positively understood that from this date an absolute equalization of tonnage and import duties will at once be applied to the product of and articles proceeding from the United States, or from any foreign country in vessels owned by citizens of the United States to the islands of Cuba and Porto Rico, and that no higher or other import or tonnage duties will be levied upon such vessels, and the merchandise carried in them as aforesaid, than are imposed upon Spanish vessels and their cargoes under the same circumstances."

From this comparison, between the master's protest and the article above cited, I can draw no deduction in support of his averment that the agreement provides for the absolute equality of American vessels from the United States to Cuba with Spanish vessels from Spain to Cuba. In fact no such expression or intention, to my view, appears in the agreement. This expressly reads, "from the United States or from any foreign country to Cuba," but says nothing of from Spain to Cuba. Similar claims have also been made verbally at this office several times before and since the receipt of this instruction, founded, as supposed, upon the phrase in article 1 of from the United States or "from any foreign country." But I have always replied to them, that under the provisions of the agreement, Spain can not, any more than the United States, be considered "a foreign country," the phrase evidently meaning all other countries to the exception of the United States and Spain. Neither is there anything in the agreement tending to show that either nation has yielded in favor of the other any of its right to the exclusive control over its own coastwise trade, as would be the case on the part of Spain were the statement of Captain Larrabee well founded. Nor can it be denied that the ports of Cuba and the ports of Spain bear quite a similar relation to the coastwise trade of Spain as those of Boston or Galveston, New York or San Francisco, Portland, Maine, or Portland, Oregon, New Orleans in Louisiana or Sitka in Alaska, bear to the coastwise trade of the United States. We have yielded no rights to Spain by this agreement over our coastwise trade, and I can not see where its provisions give us any right over that of Spain.

Then, if it be true, that under this agreement each nation retains full control over the government of its own coastwise trade, the right of Spain to fix the rate of tonnage dues on vessels trading between one port and another of the Spanish dominions remains indisputable, and we can no more oppose the manner in which she chooses to exercise this right than she can dispute that of the United States in its regulation of the tonnage dues to be paid or not to be paid by American vessels trading from one port to another of the United States. Under the Spanish system of legislation, import duties are charged on all merchandise brought from the mother country to the colonies, as well as upon that carried from the colonies to the mother country. And the agreement in question in no manner affects, nor can affect, this right of Spain to fix the rates of these import duties on this coastwise trade. And if it does not limit her right in this respect, it is difficult to perceive how it can affect that of fixing the rate of tonnage dues on the vessels employed in carrying on this traffic between the different ports of the colonies and of the mother country.

Under the fiscal system of the United States neither import duties nor tonnage dues are levied on the commerce carried on between the ports of the Federal Union. In this respect each nation merely exercises a sovereign right in pursuit of that polity which it believes best for its own interests.

In direct reply to the points presented for ascertainment by the Department in its instruction I have to say:

First. That this vessel has not paid higher tonnage dues, etc., than a Spanish vessel would have paid for making the same voyage with like cargo from Portland, Maine, to Cardenas, Cuba.

This is corroborated by an incident in regard to which application was made to this consulate a few months ago. A Spanish vessel arrived here with a cargo of lumber from Mobile, and the charterer, in opposition to the customs authorities, claimed that she should pay only 37½ cents per ton for inward tonnage dues, the same as though she had come from Spain. The collector, however, enforced the pay-

ment of the same rate that an American vessel would have paid coming from a port in the United States.

But when a Spanish vessel comes to Cuba from Spain and not from the United States or from a third country, then, on leaving here for the United States, for a third country, or for Spain, she pays outward tonnage at the rate of 25 cents per ton. Should a Spanish vessel, however, arrive here from the United States or a third country and clear again for either of them, she will in this case pay $1.35 for inward and outward tonnage, the same as foreign vessels.

However, as will be noticed, a Spanish vessel that has arrived in a port of Cuba from Spain, be it either a sailing vessel or steamer, if it leaves here loaded for the United States, it will have the advantage in the payment of lesser in the one case, and of no tonnage dues in the other over an American sailing vessel or over an American steamer leaving a port of Cuba for the United States. This fact was pointed out in my dispatch No. 340, dated January 28, 1886.

But the protest under consideration does not rest its cause of complaint upon the tonnage dues that a Spanish vessel pays in comparison with those collected from an American vessel on their leaving Cuba for the United States, but upon what a Spanish vessel pays arriving in Cuba from Spain. Upon this exception I shall make a supplementary report in a subsequent dispatch.

Second. Both American and Spanish vessels are treated alike when trading between the United States and the Antilles, and between the latter and a third country; and no other or higher duties are imposed in the one case than in the other. This is the general rule observed since the date of the agreement herein referred to; the only exception I know of is the case of the American bark *Sarah A. Stapples*, reported in my dispatch No. 591, dated March 16 last, and still pending.

I am, etc.,

RAMON O. WILLIAMS,
*Consul-General.*

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## No. 981.

### *Mr. Bayard to Mr. Curry.*

No. 272.] DEPARTMENT OF STATE,
*Washington, February* 28, 1888.

SIR: Supplementing my instruction No. 271, of even date herewith, I inclose copies of correspondence between this Department and the United States consul-general at Havana, concerning discriminating tonnage dues collected by the customs authorities at Havana from the American steamer *Jeanie* in October last.

From these papers, it will be seen that in identical cases of a Spanish and an American vessel proceeding from one insular port to another in ballast before departing on the final voyage to the United States, the difference of treatment is conspicuous.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 272.]

*Mr. Adee to Mr. Williams.*

No. 314.] DEPARTMENT OF STATE,
*Washington, November* 4, 1887.

SIR: Referring to my instruction of the 25th ultimo relative to alleged discrimination in tonnage charges against American steam-ships clearing from ports of the Spanish West Indies, I inclose a copy of dispatch No. 61, dated the 15th ultimo, from our commercial agent at Cardenas, reporting that the American steam-schooner *Jeanie*, having entered the port of Cardenas in ballast from Ponce, Porto Rico, was required to pay on clearing $1 per ton as tonnage dues, whereas Spanish vessels similarly situated are required to pay only 25 cents per ton (of cargo it is presumed) clearance dues.

You are instructed to report fully on this case in connection with your report on the case submitted on the 25th ultimo.

I am, etc.,

ALVEY A. ADEE,
*Second Assistant Secretary.*

[Inclosure 2 in No. 272.]

*Mr. Churchill to Mr. Bayard.*

No. 61.] UNITED STATES COMMERCIAL AGENCY,
*Cardenas, October* 15, 1887.

SIR: I have the honor to inform you that the steam-schooner *Jeanie*, of New York (862.95 tons), arrived here on the 10th day of October in ballast from Ponce, Porto Rico, and that on clearing her the collector of the custom-house demanded that the vessel should pay $1 per ton for tonnage dues, which being clearly contrary to the agreement entered into between Spain and the United States on the 21st of September, 1887, wherein it says "that all vessels coming to the island of Cuba under similar circumstances" with Spanish vessels shall pay the same tonnage dues; and inasmuch as a Spanish vessel coming from Porto Rico in ballast pays 25 cents per ton for tonnage dues, the captain claimed the same privilege, which was rejected by the collector of the customs of this port, he giving as a reason that he had not been advised of any change, and the amount demanded was paid under protest. I have advised the consul-general at Havana, and am, etc.,

JAMES M. CHURCHILL.

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[Inclosure 3 in No. 272.]

*Mr. Williams to Mr. Rives.*

No. 738.] UNITED STATES CONSULATE-GENERAL,
*Havana, December* 14, 1887.

SIR: I have the honor to inclose for the information of the Department a translated copy of the communication addressed by me on the 12th instant to the governor-general of this island, asking, in compliance with the Department's instruction No. 314, dated the 4th ultimo, and in conformity with the *modus vivendi* agreed upon between the United States and Spain at Washington the 21st day of September of the present year, the return of the excess of the tonnage dues collected last October by the custom-house of Cardenas, in this island, on the American steamer *Jeanie*, arrived in ballast there from Ponce, Porto Rico, and dispatched with a cargo of sugar for New York.

As will be seen from my communication to the governor-general, a similar treatment to that now complained of was imposed on this same steamer in this port of Havana last January; but the excess then collected was returned by decision of the intendant-general of finance to the agents here on the 27th of last April. In view of that precedent already established, I hope soon to be able to report the return of the excess at present in question.

I am, etc.,

RAMON O. WILLIAMS.

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[Inclosure 4 in No. 272.]

*Mr. Williams to the Governor-General.*

CONSULATE-GENERAL OF THE UNITED STATES,
*Havana, December* 12, 1887.

EXCELLENCY: Complying with special instructions received from my Government, I have now the honor to present to your attention and to commend to your consideration the fact of an excess collected by the custom-house of Cardenas in the tonnage dues corresponding to the American steamer *Jeanie*, the circumstances of the case being as follows:

This American steamer arrived at Cardenas on the 10th of October last, in ballast from the port of Ponce, in the island of Porto Rico, where it had gone from the United States; but on being dispatched in Cardenas, loaded with sugar for New York, the collector of customs there exacted and collected tonnage dues at the rate of $1 instead of 25 cents per ton, which is the rate paid by Spanish vessels under similar circumstances, against which act the master protested in season as being in opposition to the present *modus vivendi* agreed upon between the United States and Spain in Washington on the 21st of September of the present year, which stipulates in its articles, first, that it is positively agreed that from that date an absolute equalization of tonnage dues shall be applied to American vessels in Cuba, Porto Rico, and the Philippines as collected in said islands

on Spanish vessels proceeding from the United States or from any other foreign country in exchange of the stipulations of the same *modus vivendi* that concedes equal rights in the ports of the United States to the Spanish vessels that arrive there from the same islands and all other countries belonging to the Crown of Spain.

In support of this representation I have also the honor to cite the fact of this same steamer having arrived in this port of Havana on the 28th of December, last year, as now, in ballast from Porto Rico, and that in consequence of the tonnage dues having been mistakenly collected here at $1 per ton in place of 25 cents per ton, the intendancy-general of finance, upon petition of the consignees, ordered the return of the excess, which was done on the 27th April of the present year by payment of the sum of $543.45 to Messrs. Hidalgo & Co., the consignees aforementioned.

Therefore, in view of the preceding reasons, I have to ask your excellency to be pleased to order that the excess of tonnage dues unduly collected by the custom-house of Cardenas upon the American steamer *Jeanie* be returned to the person or persons authorized to receive it.

I have, etc.,

RAMON O. WILLIAMS.

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[Inclosure 5 in No. 272.]

*Mr. Williams to Mr. Rives.*

No. 755.] UNITED STATES CONSULATE-GENERAL,
*Havana, February* 16, 1888.

SIR: I beg to inform you that not having received any acknowledgment of the communication which, in compliance with the Department's instruction No. 314, I addressed to the governor-general on the 12th of December last, asking for the return of the excess of tonnage dues collected by the customs authorities of Cardenas from the American steamer *Jeanie*, arrived there in ballast from Ponce, island of Porto Rico, the 10th of October last, I addressed, in consequence, another communication upon this same subject to his excellency on the 30th ultimo, copy of which is herewith inclosed for the information of the Department.

Under the *modus vivendi* between the United States and Spain done at Washington the 21st September, 1887, Spanish vessels, as I understand, have the right of changing ports in the United States in ballast for the purpose of loading outward cargo under the same rates of foreign tonnage dues as are paid by our own vessels; therefore, it would seem to be no more than just that under the same agreement the reciprocal right should be enjoyed by our vesssels of changing ports in ballast in the Spanish dominions on the payment of the same rates of tonnage charged to Spanish vessels. In fact, this right was acknowledged and practiced by the immediate predecessor of the present intendant-general of finance with respect to this same vessel on a former trip, as I mentioned in my dispatch No. 738, dated December 14 last. As proof that Spanish vessels pay under these circumstances 25 cents per ton and not $1, as has been charged to the steamer *Jeanie*, I inclose translated copy of a letter received from the collector of this port the 6th of the said month of December, a former copy of which accompanied my dispatch No. 740.

Besides this case, another similar one happened to the brig *J. W. Parker* at Zaza, and the same treatment was intended also to have been applied lately to two American vessels recently arrived in ballast at Matanzas from Porto Rico.

In view of these facts, I beg respectfully to ask that this claim of the steamer *Jeanie* be sent to Mr. Curry, our minister to Spain, for settlement with the authorities at Madrid.

I am, etc.,

RAMON O. WILLIAMS.

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[Inclosure 6 in No. 272.—Translation.]

*Mr. de la Torre to Mr. Williams.*

OFFICE OF THE COLLECTOR OF CUSTOMS,
*Havana, December* 6, 1887.

SIR: In reply to your attentive letter of the 5th instant, I have the honor to inform you that Spanish vessels arriving here from Porto Rico in ballast and sailing afterward loaded with sugar for the United States pay tonnage dues at the rate of 25 cents for

each thousand kilos, gross, excepting those Spanish steamers of periodical trips, which enjoy an exemption from their payment.

The tonnage dues collected in Porto Rico do not serve as a basis at all in this island, because of the different manner in which they are collected.

I am, etc.,

ALFONSO DE LA TORRE.

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[Inclosure 7 in No. 272.—Translation.]

*Mr. Williams to the Governor-General.*

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Havana, January* 30, 1888.

EXCELLENCY: By special instruction of my Government, I had the honor on the 12th of December ultimo of addressing your excellency an official communication asking that you would please order the return of the excess of tonnage dues which, in contravention of the present *modus vivendi* between the United States and Spain, and of the decision rendered upon the subject by his excellency the intendant-general of the treasury, was collected by the custom-house of Cardenas upon the tonnage of the American steamer *Jeanie*, which arrived at that port on the 10th of October last past, in ballast, from Porto Rico. And not having received any answer whatever, I have again, in consequence and in compliance with said instruction, to solicit that your excellency be pleased to inform me of the result of my said communication.

I have, etc.,

RAMON O. WILLIAMS.

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## No. 982.

*Mr. Curry to Mr. Bayard.*

No. 304.] LEGATION OF THE UNITED STATES,
*Madrid, March* 3, 1888. (Received March 19.)

SIR: I have the honor to inclose a copy and translation of a royal decree published in the Gaceta of February 29 last, which embodies the measures to be taken by the Spanish Government for the celebration of the four hundredth anniversary of the discovery of America.

I have, etc.,

J. L. M. CURRY.

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[Inclosure in No. 304.—Translation.]

*Royal decree.*

ART. 1. For the purpose of commemorating the fourth centennial of the discovery of America and of honoring the memory of Christopher Columbus an exposition shall be established for the year 1892, to which the Government shall invite the Kingdom of Portugal and the Governments of the nations of Latin America.

ART. 2. The object of the exposition will be to present in the most complete manner possible the condition of the inhabitants of America at the time of the discovery by collecting for the purpose all the objects which can give an idea of the state of their civilization and of the civilization of the races inhabiting the American continent at the end of the fifteenth century and by a separate exhibition at the same time of all the products of the art, science, and industry which characterize the present culture of the nations of Latin America.

ART. 3. A special committee which shall be sent to South America in a Government war vessel shall be charged with the mission of preparing the exposition in agreement with and under the direction of the diplomatic representatives of Spain in the different American States.

ART. 4. To meet the expenses necessary for the celebration of the centennial the Government will enter in each of the five coming budgets and will submit to the approval of the Cortes an appropriation of 500,000 francs, which shall be exclusively destined to the expenses required by the commemoration. This appropriation will be declared permanent until June 31, 1893, and the sums unexpended shall be kept in the treasury until said date.

ART. 5. The ministers of state, colonies, war, and marine shall be charged with the execution of this decree in every thing corresponding to their respective departments.

Given in the Palace, February 28, 1888.

MARIA CHRISTINA.

PRAXEDES MATEO SAGASTA,
*The President of the Council of Ministers.*

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## No. 983.

### *Mr. Bayard to Mr. Curry.*

No. 275.] DEPARTMENT OF STATE,
*Washington, March* 19, 1888.

SIR: Referring to my No. 272 of the 28th ultimo, concerning the discrimination against the American steam schooner *Jeanie* at Cardenas, I now inclose for your information copy of a dispatch from our commercial agent at that port transmitting a letter from the collector stating that he would report the facts to the superior authorities at Matanzas and await their order to return the proportion of money due to the said vessel.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 275.]

*Mr. Churchill to Mr. Rives.*

No. 66.] UNITED STATES COMMERCIAL AGENCY,
*Cardenas, March* 9, 1888.

SIR: I had the honor to receive your dispatch No. 28, of the 18th February, and for which I am much obliged. I now have to advise you that in the matter of steam schooner *Jeanie*, of New York, that came to this port on the 10th day of October in ballast from Ponce, Porto Rico, to load sugars for the United States, the collector of this custom-house charged the vessel with one dollar Spanish gold for tonnage dues, which was paid under protest made by me and in name of the captain, claiming "that the *Jeanie* was the same as a Spanish vessel in like circumstances," and that a Spanish vessel coming from Porto Rico in ballast to a port in this island would pay but 25 cents per 1,000 kilograms of weight of cargo for port dues, and I now have to inclose a copy of a letter received from the collector of the customs of this port, in which he communicates the advice that he has received from the chiefs of his office, whose head is at Matanzas, and this collector has assured me that as soon as he gets in all the information that is required he will send his report to Matanzas and then await their orders to return the proportion of money due to the said vessel.

I am, etc.,

JAMES M. CHURCHILL.

[Inclosure 2 in No. 275.—Translation.]

*Mr. Jover to Mr. Churchill.*

CARDENAS, *February* 25, 1888.

SIR: The central administration of the customs at Matanzas, by a communication dated the 9th instant, instructs me as follows:

"In an official paper issued by this central office in consequence of the protest made before the United States consul at Cardenas by the master of the American steamer *Jeanie*, which arrived at that port from Puerto Rico in ballast, intending to clear therefrom, laden with Cuban products, his excellency the intendente-general has announced the following decision:

"'In view of the royal order of July 22, 1886, published in the Official Gazette at Havana August 3 of the same year, and also of the circular of the intendente-general's office published in the Official Gazette of (August ?) 12, 1886, and also of the decision of the same intendente, made known in his instruction of February 28, 1887, in reply to the inquiry of this custom-house (Matanzas), it is ordered that the vessels of the United States be put on a footing of equality with Spanish vessels as to the payment of navigation and port dues, and that they be allowed the benefits granted under the seventh article of the Law of Commerce of July 20, 1882.'

"In pursuance of this decision, and in the understanding that it prescribes no new or provisional changes, and that its benefits accrue to American vessels from the date of the aforesaid circular of the intendente-general (12th August, 1886), you will proceed to correct the charges imposed (upon the *Jeanie*), to which this present letter refers. I advise you of his excellency's orders for your guidance and effective compliance therewith."

I communicate this to you for your information.

BERNARDINO JOVER.

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## No. 984.

*Mr. Bayard to Mr. Curry.*

No. 276.] DEPARTMENT OF STATE,
*Washington, March* 21, 1888.

SIR: Your No. 304 of the 3d instant, inclosing copy of the royal decree providing for an exposition at Madrid to celebrate the four hundredth anniversary of the discovery of America, has been received and a copy of it has been communicated to the Senate Committee on the Centennial of the Constitution and the Discovery of America for their information.

I am, etc.,

T. F. BAYARD.

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## No. 985.

*Mr. Bayard to Mr. Curry.*

No. 279.] DEPARTMENT OF STATE,
*Washington, April* 2, 1888.

SIR: I inclose copy of a dispatch from our consul at Cienfuegos reporting another violation of the commercial agreement with Spain.

The American schooner *Uranus*, in ballast from Ponce, Porto Rico, to Cienfuegos, loaded molasses at the latter port for the United States and was charged 37 cents per register ton duty on her outward cargo, where a Spanish vessel would have paid 25 cents per ton.

You are instructed to bring the case to the attention of the Spanish Government, and to ask that the money improperly exacted may be returned.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 279.]

*Mr. Ehninger to Mr. Rives.*

No. 64.] UNITED STATES CONSULATE,
*Cienfuegos, March* 19, 1888.

SIR: I have the honor to report another case similar to that referred to in my No. 58 of January 18 ultimo.

The accompanying protest of the master of the vessel will fully explain the case.

I am, etc.,

HENRY A. EHNINGER.

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[Inclosure 2 in No. 279.]

*Protest of Mr. Peters.*

UNITED STATES CONSULATE,
*Cienfuegos, March* 19, 1888.

Personally appeared before the undersigned, United States consul of Cienfuegos, W. H. Peters, master of the American schooner *Uranus*, of Portland, Maine, of the burden of 344 tons, or thereabouts, and declares as follows: That on or about the 8th day of January, 1888, he arrived with the said vessel at the port of Ponce, in the island of Porto Rico, with a cargo of lumber from Wilmington, North Carolina, United States; that after discharging said cargo he paid his tonnage dues at the rate of 62½ cents per 1,000 kilograms delivered, and cleared in ballast for the port of Cienfuegos, island of Cuba, arriving there on the 19th day of February; that in Cienfuegos he loaded with a full cargo of molasses, and when ready to clear, and proceeding to pay the tonnage dues on said cargo, the customs authorities exacted payment of the same at the rate of 37 cents per register ton, the same being a different rate from that charged to Spanish vessels arriving from possessions of Spain, which are charged at the rate of 25 cents per ton of outward cargo. And inasmuch as the agreement entered into between the United States of America and Spain on the 21st of September, 1887, stipulates that no discriminating duties shall be levied upon American vessels, the declarer considers that the exaction of the payment of tonnage dues at the rate of 37 cents per ton of register in his case is a violation of the agreement aforesaid.

Wherefore he, the said W. H. Peters, does hereby solemnly protest, and I, the said consul, at his special instance and request, do join him in protesting against the payment of the said charge of 37 cents per ton of register, and against the customs authorities of the port of Cienfuegos for the enforcement of the same, and against all and every person or thing concerned in the enforcement of the same, considering it to be an unjust and unlawful charge, and that the excess collected over and above the rate of 25 cents per ton of cargo ought to be refunded to him by the said customs authorities.

In testimony whereof the said W. H. Peters has hereunto subscribed his name, and I, the said consul, have set my hand and affixed my seal of office the day above written.

[SEAL.] HENRY A. EHNINGER.

WM. H. PETERS,
*Master of Schooner Uranus.*

No. 986.

*Mr. Bayard to Mr. Curry.*

No. 284.] DEPARTMENT OF STATE,
*Washington, April* 19, 1888.

SIR: In continuance of instructions heretofore sent you touching the shifting interpretation in Cuba of the provisions of the *modus vivendi* of January and February, 1884, especially in regard to the application of third column or fourth column rates of duty on goods not actually produced in the United States, but proceeding therefrom to the island of Cuba, I transmit herewith for your information a very full and intelligent report, covering the whole ground in connection with the claim of Messrs. Calixto Lopez & Co., of New York, for the refund of the excess of duties levied at fourth-column rates instead of third-column, on a shipment of Venezuelan coffee by the *Saratoga* in October, 1884, received from Mr. Williams, consul-general at Havana, in reply to the Department's call.

Among the twelve inclosures which Mr. Williams sends to give a connected review of the question, are copies of two dispatches to this Department, Nos. 177 and 220, dated respectively 15th of May and 4th of July, 1885. These were sent to the legation at Madrid to your predecessor, Mr. Foster, with my instructions numbered 341, of May 25, and 370, of July 16, 1885. They are, however, herewith repeated, so as not to disturb the connected presentation of the matter made by Mr. Williams.

The amendments since made by the successive commercial agreements to the vague and defective *modus vivendi* of January and February, 1884, have, it is believed, put an end to all complaints of discriminating treatment in this regard, and it would seem equitable that cases arising before the adjustment of the question should, as far as practicable, be decided in accordance with the principles and rules which have since been agreed upon.

You may endeavor, in the light of the present report, and by the use of such discreet and friendly argument as may appear to you practicable, to dispose of the claim of Messrs. Calixto Lopez & Co. The essential point upon which you should dwell is that the treatment of which they complain was in fact a denial to a vessel of the United States of a favor accorded to a Spanish vessel making the like voyage and carrying the like merchandise under the same conditions.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 284.]

*Mr. Adee to Mr. Williams.*

No. 238.] DEPARTMENT OF STATE,
*Washington, January* 26, 1888.

SIR: I send you inclosed a copy of a letter from Messrs. Calixto Lopez & Co., dated the 13th instant, accompanied by a copy of one from the same firm dated February 14, 1885, in regard to the duties levied by the customs authorities at Havana on a shipment of Venezuelan coffee made by them on the 18th of October, 1884, from New York to Havana. They state that duty was levied on said consignment according to the fourth column instead of the third, because the coffee was not the product of the United States.

When the matter was presented to the Department in 1885 it was decided not to present it to the Spanish Government on account of the treaty negotiations then pending. The case is now referred to you for investigation and report.

I am, etc.,

ALVEY A. ADEE,
Second Assistant Secretary.

[Inclosure 2 in No. 284.]

*Messrs. Lopez & Co. to Mr. Bayard.*

NEW YORK, *January* 13, 1888.

SIR: We take the liberty to inclose herewith copy of a letter sent to the Hon. Frederick T. Frelinghuysen, the then Secretary of State, dated February 14, 1885. The answer given us by the Department was sent to Havana, and to the best of our recollection it said that as proceedings on the subject were being carried on with the Spanish Government it would be inexpedient to press on our claim.

The disputed interpretation of article 1 of the commercial treaty signed at Madrid in April of 1884 by representatives of the Governments of the United States and of Spain, which reads, "and all products of and articles proceeding from the United States of America will be admitted according to the third column of the tariff of the islands of Cuba and Porto Rico, etc.," has been, we understand, decided in favor of all articles proceeding from this country and under the American flag, and if such is the case we think we are entitled to the excess of duties paid; and we respectfully apply to you for an opinion on this matter, and if justice is found on our part, to formulate a claim against the custom-house authorities of Cuba through your Department, and to this end we will furnish all the necessary documents relating to this claim.

Hoping to be honored with an answer, we are, etc.,

CALIXTO LOPEZ & CO.

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[Inclosure 3 in No. 284.]

*Messrs. Lopez & Co. to Mr. Bayard.*

NEW YORK, *February* 14, 1885.

SIR: On the 18th day of October, 1884, we shipped on board the American steamship *Saratoga* bound for Havana, Cuba, 286 bags of Venezuelan coffee consigned to Messrs Segundo Alvarez & Co., of that city. They inform us that the customs authorities at that port proposed at first to appraise said goods according to the third column of the tariff of that island, in accordance with the tariff regulations entered upon in March of last year between the Governments of the United States of America and Spain. But now they propose to appraise, or have already appraised, said goods according to the fourth column, on the ground that said goods were not products of the United States of America.

The difference between appraising these goods by the third or fourth column is nearly $600. Protests have been made to the authorities of that island without effect, and we now appeal to you to decide whether Venezuelan products proceeding from this country under the American flag are or not entitled to such benefit as prescribed in said tariff regulations.

An answer will greatly oblige,

Yours respectfully,

CALIXTO LOPEZ & CO.

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[Inclosure 4 in No. 284.]

*Mr. Williams to Mr. Rives.*

No. 768.] UNITED STATES CONSULATE-GENERAL,
*Havana, March* 21, 1888.

SIR: In compliance with the Department's instruction No. 328, of the 26th of January last, I now beg to report as follows upon the 286 bags of Venezuelan coffee shipped in the port of New York, October, 1884, on board the American steamer *Saratoga* for Havana by Messrs. Calixto Lopez & Co., of that port.

This case grows out of a sudden change made by the customs authorities of this island in their original interpretation of the first *modus vivendi*, negotiated at Madrid on the 13th of February, 1884, between the United States and Spain for the expressed purpose of abolishing, on the part of Spain, the discriminating duties before imposed in the islands of Cuba and Porto Rico, upon the products of and articles imported from the United States, into those islands, as a corresponding compensation for the abolition on the part of the United States of the retaliatory import duties of 10 per cent. additional *ad valorem*

imposed on the products of and articles proceeding from them when imported into the United States in Spanish vessels.

This *modus vivendi* was authorized on the part of the United States, and ordered to go into effect on the succeeding 1st day of March of 1884, by the proclamation of President Arthur, dated the 14th of February preceding, and issued in virtue of the authority invested in him by section 4228 of the Revised Statutes of the United States.

Pursuant thereto, the customs authorities of the United States, in execution of article 2 removed the retaliatory duty of 10 per cent. *ad valorem*, which, since 1834, had been imposed there, under the administration of President Andrew Jackson, upon the products of and articles proceeding from the islands of Cuba and Porto Rico in Spanish vessels, thereby placing the latter, in this particular, on an equal footing with American vessels in the ports of the United States.

On the part of Spain it was likewise simultaneously enforced in this island, and in conformity with article 1, the customs authorities here began to collect import duties as therein agreed, under the third column of the Cuban tariff on all cargoes brought to this island either in American or Spanish vessels from the United States regardless of national origin. As a consequence, merchandise, the product of other countries that had been carried to the United States and entered there in bond and transshipped afterward to Cuba, paid only the same rates of tariff duties as those collected upon the natural products of the United States. This interpretation, however, was continued, as will be seen, only for a few weeks, by the customs authorities of the island.

An interrogatory addressed about the same time to the intendant-general of finance by Messrs. A. Pellon & Co., of this city, asking if merchandise imported from the United States under the English flag would enjoy the same privileges granted by the *modus vivendi* to that brought under the American and Spanish flags, having been decided in the affirmative by the insular Government, its enumerated privileges were likewise extended to English shipping trading between the United States and Cuba. Although it is to be supposed that the Government of the United States on negotiating this *modus vivendi* was actuated solely in the interest of American commerce and American shipping, still this decision of the insular Government, extending its benefits to the English flag, seems to have been in strict conformity with article 1, which stipulates only in favor of merchandise, and omits all reference to the flag of the shipping bringing it from the United States to Cuba, in notable contrast to article 2, which does positively stipulate in favor of the Spanish flag.

As soon as it was known to the merchants of this city that all merchandise to come from the United States after the 1st of March, 1884, was to pay import duties under the third instead of the fourth column of the Cuban tariff, placing thereby the import trade of Cuba from the United States upon an equality with the same trade as practiced in Spanish vessels sailing from England, France, and Germany, several importing merchants of Havana, discerning by calculation that a saving of freight would be gained by bringing their supplies from the latter-named countries *via* New York, instead of direct from Europe in Spanish steamers *via* Liverpool, as accustomed, entered into arrangements for the bringing of these goods to New York, and from thence to Havana in the "Alexander" and "Ward" lines of American steamers. For the better explanation of this particular point, I would state that Spain had always maintained differential duties in these two islands against England, as well as against the United States and all other countries, keeping thereby their import carrying trade to the fullest practicable extent for her own vessels. Great Britain never retaliated against this measure as the United States had done, but submitted to it in the interest of her manufacturers, who supplied most of the manufactured articles consumed in Cuba and Porto Rico, leaving, as a sort of *quid pro quo*, the carrying of them exclusively to Spanish shipping; the only exception allowed by Spain in this particular being with respect to bulky cargo, such as coals, pig-iron, and heavy sugar-plantation machinery, which, from their nature, not being able to bear the expense of costly freight, she allowed to be brought in vessels of whatever nationality that could do it the cheapest, thereby favoring the development of the sugar-planting interests of those islands.

As a matter of course, the arrangements of Cuban merchants to import from Europe *via* New York began to divert freight from the Spanish steamers coming from Liverpool, and to arouse the fears of their consignees and agents both here and there, as also of their Spanish and English owners. Fault, as observed from this point of view, was at once found with the word "procedencias," and a new interpretation was started, giving to it meaning of only comprehending the natural products of the United States, to the exclusion of the products of other countries. Liverpool as well as Havana influences were brought to bear upon the home and insular governments. At this point another Spanish interest also combined and co-operated with these influences to effect an alteration of the original interpretation by which all merchandise, irrespective of origin, coming here from the United States was admitted under the third column of the Cuban tariff. This interest was that of the circuit of trade carried on between Spain and the River

'late countries, and from thence to Cuba and Porto Rico. As already explained in my lispatches to the Department, it consisted in the carrying of cheap Spanish wines in ipes and sub-multiples of pipes, raisins, olives, olive oil in jars, and some manufactured goods exclusively in Spanish shipping from Spain, and mostly from Barcelona and Tarragona to Montevideo and Buenos Ayres, and then with the proceeds of these outward cargoes the buying of and the bringing of return cargoes of jerked beef exclusively in Spanish shipping for account of the adventure (cuenta de expedicion) for the feeding of the plantation hands and other working classes of Cuba and Porto Rico.

But this circuit of trade could only be maintained under the shelter of a high differential duty for the protection of Spanish shipping, and the handicapping thereby of foreign shipping in this transit from Uruguay and Buenos Ayres to Cuba and Porto Rico. Now the security of this Spanish trade was also menaced by the terms of article 1 of the *modus vivendi*, because soon after its negotiation the English tramp steamers, after taking out cargoes from Europe to the River Plate countries, began to load jerked beef for New York, where, in turn, it was unloaded and reshipped in American and English vessels for Havana and other ports of Cuba, as well as to the Island of Porto Rico. This new competition was not only badly felt by Spanish shipping, but also by the wine and olive growers and other leading industries of Spain. For, unless Spanish shipping were kept under shelter in its navigation from the River Plate to the Antilles, it could not afford to carry wines and olive oils, etc., from Spain to South America in competition with the vessels of France and Italy, carrying there the similiar products of these two countries. Hence a general combination of Spanish shipping and commercial interests was brought to bear to bring about an alteration in the construction and interpretation of said article 1 of the *modus vivendi* of the 13th of February, 1884. And these efforts having been finally successful, the newly inaugurated branches of business for the bringing of European merchandise and South American jerked beef to Cuba in foreign vessels *via* New York, as a consequence, reverted to their former Spanish channels of transportation. This change naturally brought about a great deal of confusion in the business of those who had ordered goods from Europe and jerked beef from South America *via* New York, because the higher duties of the fourth column of the Cuban tariff were exacted here on their entry. Complaints and remonstrances were presented to the insular government by the parties interested, principally resident Spanish merchants.

The derogation also comprehended the abolition of the extension decreed in favor of English shipping, evoked, as already stated, by the interrogatory of Messrs. A. Pellon & Co. This determination of the Spanish Government was shortly after followed by its publication in the Gazette of Havana on the 8th of May, 1885, under an explanatory royal order, dated at Madrid, on the 6th of April of that year, which I translated and forwarded to the Department with my dispatch No. 177, of the 15th of May, amplifying the latter in my other dispatch, No. 220, of July the 4th, 1885. What is exceedingly noticeable in all these proceedings is that the other party to the *modus vivendi*, the Government of the United States, does not appear at all to have been consulted in this change of interpretation by the Government of Spain. In consequence, it now became necessary for the entitling of merchandise imported from the United States into this island to the benefits of the duties of the third column of the Cuban tariff, as was stated in my said dispatch No. 177, that they should comply with the following conditions:

First. Be natural products of the United States.

Second. Proceed direct from there.

Third. And be imported direct either under the Spanish or American flag.

It was under these circumstances that the 286 bags of coffee shipped in New York by Messrs. Calixto Lopez & Co. on board the American steamer *Saratoga* arrived at Havana in the month of October, 1884, and were entered at the custom-house by the consignees under the third column of the Cuban tariff in accordance with article 1 of the *modus vivendi* of the 13th of February, 1884. But their entry was rejected under that column by the customs authorities, who instead appraised them under the fourth column of the said tariff. This action resulted in making a difference against the New York shippers of $608.11 Spanish gold plus $67.56 Spanish bank bills.

Complaint against this proceeding having been presented to this office by Mr. Manuel Lopez, a member of the shipping firm at the time here, I accordingly informed the Department of it in my dispatch No. 76 of November 7, 1884, representing the case afterwards to the governor-general of the island in a communication addressed to him on the 7th of the same month. But not having received any acknowledgment, I addressed him another, under date of the 9th of January, 1885. This second communication was answered on the 12th of the said month through the political secretary of the island. I was informed by that high insular functionary of the refusal of my petition for the collection of import duties on foreign products proceeding from the United States under the third column, or, in other words, that a discrimination in this particular was to be prac-

ticed under the *modus vivendi* against American vessels and in favor of Spanish vessels coming from the United States.

Furthermore, it was also stated in the name of the governor-general that the 286 bags of coffee had been appraised under the fourth column of the tariff, in accordance with a decision of the insular government, made on the 31st of May previous, which declared the benefit of the third column to be limited to the products of the United States when imported direct from there under the American flag, and never to the products of other countries, though coming from the ports of the United States. This answer of the governor-general is remarkable for its authoritative manifestation of the fact that the colonial government had decided finally and adversely to the United States in the interpretation of a convention not made with the colony, but with its metropolis.

At this point the subject ceased to be discussed, here and was referred by the Department, in reclamation, to the Madrid Government through our minister plenipotentiary. A royal order, in consequence of his representations, was issued on the 22d of June, 1886, to the governors-general of Cuba and Porto Rico, instructing them to suppress the discrimination charged upon foreign goods coming from the United States in American vessels, putting the latter in this particular upon an equality with Spanish vessels. This royal order was duly published, but not obeyed by the insular government. Also, in obedience to the Department's instruction No. 187, of the 15th of June, 1886, I conveyed the assurance to the governor-general, under date of August 3, as required by the said royal order, that Spanish vessels were treated in the United States in every respect on the same footing as American vessels. But, notwithstanding the publication of the royal order and the conveyance of this assurance, no change whatever was made, and the customs authorities continued, in disobedience of the royal order, to charge import duties on all goods of foreign origin coming here in American vessels under the fourth column, whilst at the same time they admitted the same goods under the third column when imported from the United States under the Spanish flag.

In consequence of the continued imposition of this discrimination against American vessels, in opposition to the royal order issued especially for its suppression, I addressed a communication, on the 20th of August, 1886, to the governor-general, invoking the exercise of his superior authority for the enforcement of said royal order, which was manifestly being prevented from going into effect by the obstructive action of the central collector of customs. But not having received any reply to my communication, I made a visit on the 8th of the following month to the intendant-general of finance, to whom it had been referred for decision. The results of this interview, purely negative, were reported by me to the Department in my dispatch No. 479, of the 9th of September, 1886. At last, on the 20th of that month, I received a communication, dated the 18th of the same month, from the central collector of customs, in which he informed me of the receipt of a telegram from the minister of the colonies denying *in toto* the right of American vessels to bring merchandise, the products of other countries from the United States to Cuba under the third column of the Cuban tariff, as expressly agreed by article 1 of the *modus vivendi* of the 13th of February, 1884; thereby subjecting them still to the payment of import duties under the fourth column, whilst allowing them to be brought by Spanish vessels under the greatly-reduced duties of the third column. Upon this determination of the Government of Madrid, transmitted through the insular government, further discussion here again ceased, as a matter of course. But as a consequence of that determination, and upon its confirmation at Madrid, President Cleveland revoked, by proclamation, dated the 13th of October, 1886, the suspension of the discriminating duties on Spanish vessels in the United States which had been proclaimed by President Arthur on the 14th of February, 1884, both suspending the *modus vivendi* and affirming by this act that the only canon of its interpretation was to be found in section 4228 of the Revised Statutes of the United States.

In concluding this report upon the said 286 bags of coffee, the product of the Republic of Venezuela, and shipped by Messrs. Calixto Lopez & Co., in New York, on board the American steamer *Saratoga* for Havana in the month of October, 1884, I beg to remark in recapitulation:

(1) That on the enforcement here of the *modus vivendi* of the 13th of February, 1884, the customs authorities of this island admitted cargo the product of other countries coming from the United States in both Spanish and American vessels on an equal footing, collecting the import duties alike under the third column of the Cuban tariff.

(2) That this benefit was also extended to the same class of cargo coming in English vessels from the United States.

(3) That some weeks afterwards it was discontinued upon American as well as upon English vessels.

(4) But that its enjoyment was continued to Spanish vessels.

(5) That the assent of the United States was never given to the change of interpretation made by the customs authorities of this island.

(6) That upon the remonstrance of the Government of the United States the royal

order of the 22d of June, 1886, was issued, ordering the resumption of the original interpretation and the replacing of the vessels of both nations upon an equal footing in the bringing of cargo from the United States to Cuba.

(7) That, this royal order not having been enforced here, the President in consequence revoked the *modus vivendi* of the 13th of February, 1884, but that it was again renewed at Washington on the 27th of October, 1886, upon the acceptance by Spain of the interpretation of the Department of State.

I have, etc.,

RAMON O. WILLIAMS.

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[Inclosure 5 in No. 284.]

*Mr. Williams to Mr. Porter.*

No. 177.] UNITED STATES CONSULATE-GENERAL,
*Havana, May* 15, 1885.

SIR: With particular reference to the Department's instruction No. 133, dated March 1, 1884, addressed to my predecessor and relating to the agreement of January 2 and 13th of February with Spain, I now beg to inclose for the information of the Department the translation of an explanatory Royal order, dated the 6th of April last and published in the Official Gazette of this city on the 8th instant.

With the view of obtaining a fuller understanding of its meaning I called this morning on the intendant-general of finance, who informed me in answer that instead of two conditions (la doble circumstancia), in reality, according to the interpretation of the agreement of the 13th of February by his department, that three conditions were necessary to entitle American merchandise imported into this island and that of Porto Rico to the benefits of the third column of the tariff, and that they are, viz:

First. That they shall be the product of the United States.

Second. That they shall proceed from the United States.

Third. That they shall come either under the American or Spanish flag.

Further, I have been informed here in conversation with merchants, that in consequence of this interpretation the several British steamers now engaged in the carrying trade between the United States, Cuba, and Porto Rico, as well as those running between the United States and Mexico, *via* Havana, are not able to get freight, and that their places will have to be filled with American or Spanish steamers.

I have, etc.,

RAMON O. WILLIAMS.

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[Inclosure 6 in No. 284.—From the Official Gazette, of Havana, May 8, 1885.—Translation.]

*Royal Order.*

INTENDANCY-GENERAL OF FINANCE,
*Havana, May* 15, 1885.

Under date of the 6th of April last, and numbered 387, the following Royal order has been communicated by the colonial department to his excellency, the governor-general of this island:

"EXCELLENCY: Under date of 13th of September ultimo, I have informed the minister of state as follows:

"'EXCELLENCY: In view of the Royal order issued by your department under date of 30th of August ultimo, and of the communication received from the minister plenipotentiary of the United States, regarding the interpretation given by the governor-general of Porto Rico to the commercial agreement entered into between Spain and that Republic, the King has been pleased to order that your excellency be informed that the colonial department has not issued the instructions alluded to by the plenipotentiary referred to, having limited itself only to the answering of the questions asked upon the subject by the governor-general of the Antilles, under the criterion that in order to enjoy the benefits of the third column of the tariff the double circumstance is necessary, that the merchandise be the products of the United States and that it be transported under the American flag, benefits which have since been extended to France and Germany, in virtue of their reclamations, which they had the right to found on the most-favored-nation clause.'

"Which by Royal order I transmit to your excellency for your information and the corresponding effects."

And compliance with the same having been ordered by his excellency, it is published in the Official Gazette for public information.

LUCAS GARCIA RUIZ.

HAVANA, *May* 5, 1885.

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[Inclosure 7 in No. 284.]

*Mr. Williams to Mr. Porter.*

No. 220.] UNITED STATES CONSULATE-GENERAL,
*Havana, July* 4, 1885.

SIR: With special reference to my dispatch No. 177, dated the 15th of May last, I beg to inclose the translation of a paragraph that has appeared to-day in the columns of the Diario de la Marina, a leading newspaper published in this city, in which the public is notified that Messrs. F. Alexandre & Sons, of New York, would, after the 9th instant, substitute the British tramp steamer *Principia*, now running in their steam-ship line between the terminal ports of New York and Vera Cruz, *via* Havana, with a Spanish steamer.

As I understand, Messrs. Alexandre & Sons have been forced to this step by the interpretation given to the agreement of the 13th of February, 1884, between the United States and Spain by the treasury department of Cuba, in consequence of which interpretation American merchandise is only entitled to enter this island under the duties of the third column of the Cuban tariff when imported in Spanish or American bottoms.

I am, etc.

RAMON O. WILLIAMS.

[Inclosure 8 in No. 284.—Translation.]

*Notice.*

Messrs. Todd, Hidalgo & Co. have this day furnished us the following advice, which is of interest to commerce:

"Messrs. F. Alexandre & Sons have telegraphed us that on the 9th instant they will dispatch a Spanish steamer for this port in place of the (British) steamer *Principia*, and we call the attention of importers to this fact in view of the advantages thereby offered for the importation of foreign goods."

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[Inclosure 9 in No. 284.]

*Messrs. Lopez & Co. to Mr. Williams.*

HAVANA, *March* 21, 1888.

SIR: We are in receipt of letter from Messrs. Segundo Alvarez & Co., of this city, dated on the 30th day of October last, wherein they inform us as having received an invoice declaring 286 bags of coffee consigned to them and shipped by Messrs. Calixto Lopez & Co., of New York, on board the American steam-ship *Saratoga* on the 16th day of same month.

On the arrival of said steamer into this port these gentlemen made the regular entry of said coffee as per invoice and bills of lading in the custom-house at this port, to have the duties paid by the third column of the tariff as applied to merchandise coming from the United States of America. Wherefore the officers of the custom-house objected, compelling them to pay by the fourth column of the tariff or making a deposit which amount should cover the difference there is from the third to the fourth column of the tariff, and claiming that such law was only applicable to American products. In view of that Messrs. Segundo Alvarez & Co. claim that this difference will be charged to us in our account, because we are the shippers and purchasers of said goods.

We must beg you as the representative of the American Government to inform us whether it is or not applicable to both countries and flags the commercial agreement which was published in the official papers of both countries, compromised between Mr. Foster, as special envoy and minister plenipotentiary of the Government of the United States of America at Madrid, and the Spanish Government, on the 1st day of March,

year (1884), wherefore both governments agree and declare the abolish- to vessels and merchandise coming into Cuba and Porto Rico from the nited States of America; wherein they classify in the third column of ariff all merchandise or products and procedencias from either of these ng in American or Spanish vessels. Our house in New York made the id goods in American vessels on account of the agreement between the nts as aforesaid.

an immediate action in the interest of truth and justice, we remain, sir,

CALIXTO LOPEZ & CO.

[Inclosure 10 in No. 284.]

*bags of coffee consigned to and for account and risk of Messrs Segundo, Alvarez wana, shipped on board the American steam-ship Saratoga, whereof McIntosh r.*

| | | |
|---|---|---|
| s, with a weight of 55,641 pounds, at 10 cents each | | $5,698.20 |
| | $147.38 | |
| | 51.90 | |
| from Guaira to New York | 337.13 | |
| ties | 276.57 | |
| d other expenses | 274.77 | |
| | | 1,087.75 |
| nish gold) | | 6,785.95 |

CALIXTO LOPEZ & CO.

*ctober* 16, 1884.

| | Currency. | Gold. |
|---|---|---|
| gs of coffee, according to the third column of the revenue | | |
| ecreted and applied to American procedences | $242.92 | $2,186.29 |
| according to the fourth column, as they want | 310.48 | 2,794.40 |
| against us | 67.56 | 608.11 |

SEGUNDO, ALVAREZ & CO.

*ber* 29, 1884.

[Inclosure 11 in No. 284.]

*Mr. Williams to Mr. Hunter.*

UNITED STATES CONSULATE-GENERAL,
*Havana, November* 7, 1884.

the honor to call the special attention of the Department to the within to this consulate-general by Mr. Manuel Lopez, now here, and partner of firm of Messrs. Calixto Lopez & Co., of New York City.

stated in the accompanying letter, briefly summed, are as follows: These der the impression that the commercial agreement entered into between ates and Spain at Madrid on the 13th February last past had for object of the different duties on the part of Spain and the retaliatory duties on e United States, hitherto mutually imposed on the trade between the , Cuba, and Puerto Rico, and conversely between those islands and the , did, on the 16th of last month, ship in the port of New York, on board steam-ship *Saratoga*, bound for Havana—

No. 1–125, 125 bags of coffee;
No. 126, 161 bags of coffee;

286 bags of coffee—

panying original bills of lading and copy of invoice to be delivered to do, Alvarez & Co., merchants of this city.

But on the landing of this coffee here the custom-house authorities, contrary to the only purpose and object of the said commercial agreement, *i. e.*, of putting the vessels of both nations on an equality, exacted a differential duty, pretending to collect it according to the fourth column of the tariff, instead of collecting it according to the third column; there resulting, in consequence, a difference of duties of $67.56 Spanish bank bills and $608.11 Spanish gold, per accompanying statements, which is nothing more or less than the pretension to collect a differential duty on transit cargo brought to Cuba in American vessels, in order to give the carriage of such transit cargo between the United States and Cuba and Puerto Rico exclusively to Spanish bottoms, in partial violation of the intention and meaning of the agreement of the 13th of February last, and in part a reversion by Spain to the same treatment extended to our vessels which provoked the special message upon the subject addressed to Congress by President Jackson in 1834, which ended in the enactment, as an offset, of our retaliatory duties. The abolition of the one as cause and the other as effect was the only object of the said agreement of 13th of February of the present year.

In this connection, and for reasons that may be discerned in my separate and confidential dispatch No. 10, dated September 26 ultimo, I would say that the article jerked beef, hitherto forming one of the prime elements of the circuit of trade carried on between Barcelona, Buenos Ayres, Montevideo, and Havana, at the expense of American sugar consumers, is now being carried from the river Plata to New York and from thence brought to Havana.

Now, as a consequence, if this interpretation put by the customs officials here upon out from carrying this jerked beef between New York and Havana, and the business will the agreement of February 13, 1884, is allowed, then American vessels will be shut out from carrying this jerked beef between New York and Havana, and the business be monopolized solely by Spanish shipping, thus showing conclusively that the differential duties have not yet been totally abolished by Spain.

Awaiting the Department's instructions on this subject, I have, etc.,

RAMON O. WILLIAMS.

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[Inclosure 12 in No. 284.]

*Mr. Williams to the Governor-General.*

HAVANA, *November* 17, 1884.

EXCELLENCY: I have the honor to present for your excellency's consideration and decision the following case, which has been reported to this consulate-general by Mr. Manuel Lopez, now here, and partner of the firm of Messrs. Calixto Lopez & Co., of New York City, the facts of which are as follows, viz:

These gentlemen, under the impression that the commercial agreement entered into between the United States and Spain at Madrid on the 13th of February last past had for its object the abolition of the differential duties on the part of Spain and the countervailing or retaliatory duties on the part of the United States hitherto mutually imposed on the trade between the United States, Cuba, and Porto Rico, and conversely between those islands and the United States, did on the 16th of last month ship in New York, on board the American steam-ship *Saratoga*, bound for Havana, 286 bags of coffee, the product of the Republic of Venezuela, which had been carried from the port of La Guayra, in Venezuela, to the port of New York, in the United States.

But regardless of the conditions of said agreement of the 13th February, on the landing of this coffee in the port of Havana, the customs authorities here have pretended to collect the import duties thereon according to the fourth column, instead of according to the third column, of the tariff ruling in this island.

In consequence, an excess of import duties has been assessed on said coffee of $67.56, Spanish bank bills, and $608.11, Spanish gold, over and above what it would have had to pay had it been brought from New York to Havana in a Spanish vessel.

I am therefore compelled to remonstrate before your excellency against the action of the customs authorities in the case as being contrary to the intent and meaning of the said agreement of the 13th of February last, promulgated in the Official Gazette of this city in its issue of the 23d of April of the present year, and according to which, as your excellency will observe on reference thereto, it is explicitly stated that the object of the agreement was the mutual concession of tariff advantages between the islands of Cuba and Porto Rico and the United States.

The same decree, article 1, also declares that "in virtue of the authority granted to the Spanish Government by article 3 of the law of the 20th of July, 1882, that the duties of the third column of the Cuban and Porto Rico tariff shall be applied, which implies the suppression of the differential or flag duties to the products and *merchandise proceeding* from the United States."

The fact of this collection of an excess of import duties in the case cited constitutes beyond all doubt the imposition of a discriminating duty against the American flag in Cuban ports, which was suppressed by the agreement of 13th of February, 1884.

It is also in contravention to the law of the Congress of the United States by which the President was authorized to accept the agreement of February 13, 1884, for it is opposed to the *perfect reciprocity* upon which said Congressional authority is based.

Again, had this coffee been brought first from La Guayra to Havana, and from thence shipped in a Spanish bottom to the United States, no more duties would have been collected there than had it been shipped in an American bottom; that is, the shipping of both nations would have been placed on a perfect equality in the ports of the United States.

Neither is it reasonable to suppose that the Government of the United States would ever have entered into an arrangement by which the vessels of foreign nations should be favored in the loading of cargo in American ports over American vessels; yet such is what is implied by the interpretation of the agreement of the 13th of February ultimo, by the Havana customs authorities.

Therefore, relying upon your excellency's clear judgment and good desires for the promotion of commercial relations between the United States and Cuba, I have to ask that it be ordered through your excellency's superior authority, in view of the foregoing, that no more duties be collected on the said 286 bags of coffee of Messrs. Calixto Lopez & Co., of New York, than if they had been brought to Havana in a Spanish vessel.

Trusting in an early reply from your excellency for transmission to the honorable the Secretary of State at Washington, I remain, etc.,

RAMON O. WILLIAMS.

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[Inclosure 13 in No. 284.]

*Mr. Williams to the Governor-General.*

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Havana, January* 9, 1885.

EXCELLENCY: On the 17th of November last I had the honor to address your excellency an official communication upon the subject of a discriminating import duty collected by the customs authorities of this city upon 286 bags of La Guayra coffee, transhipped in the port of New York on board the American steamer *Saratoga* for this port, to which communication I have not as yet received an answer.

In consequence, and in obedience to special instructions, dated Washington the 30th ultimo, from the honorable Secretary of State of the United States, I have now most respectfully to ask your excellency to be pleased to inform this office, at your earliest convenience, of the decision that the island government may have reached upon the subject, to the end that I may accordingly communicate the same to the honorable Secretary of State, adding by instruction that the Government of the United States certainly expects that an engagement like that of February, 1884, which proposes to abolish all differential duties, should be interpreted so as not to discriminate against any cargo carried in an American vessel.

I have, etc.,

RAMON O. WILLIAMS.

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[Inclosure 14 in No. 284.—Translation.]

*Mr. Cassá to Mr. Williams.*

GENERAL GOVERNMENT OF THE ISLAND OF CUBA,
SECRETARY'S OFFICE, POLITICAL BUREAU,
*Havana, January* 12, 1885.

SIR: In answer to your communication of the 17th of November last and 9th instant, referring to the collection of customs duties on 286 bags of coffee, the product of the Republic of Venezuela, proceeding (*procedentes*) from the United States in the American steamer *Saratoga*, his excellency the governor-general, after a hearing with the department of the treasury, has been pleased to decide that you be informed, as I now have the honor to manifest, that the 286 bags of coffee have been appraised under the fourth column of the tariff, in accordance with decision given by this general government on the 30th of May last, which ordered that the benefit of the third column could only be enjoyed by the products of the United States imported under the American flag,

a circumstance foreseen in the treaty between the United States and Spain, the said benefit corresponding only to the products of that nation proceeding from the same, but not to the products of other nations, though they come from ports of the United States.

God guard you many years.

FRANCISCO CASSÁ.

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[Inclosure 15 in No. 284.]

*Mr. Adee to Mr. Williams.*

No. 187.] DEPARTMENT OF STATE,
*Washington, July* 15, 1886.

SIR: I send you inclosed a copy of dispatch No. 69 from the minister of the United States at Madrid, in which he incloses a copy of an order issued from the ministry of ultramar to the governors-general of Cuba and Porto Rico, respecting the suppression of the differential flag duties, and a proposed equalization of navigation dues in those islands, and certain correspondence relative thereto.

Your attention is particularly called to that part of the order which relates to the equalization of navigation dues and provides that as soon as it is shown by the representative of the United States in Cuba that this benefit has been granted to Spanish vessels, the authorities in Cuba shall proceed to apply it to American vessels; and, in the same connection, to section 14 of the act of June 26, 1884, entitled "An act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes," three copies of which are sent herewith. You will convey to the proper authorities the assurance, under said act, that Spanish vessels coming to the United are treated in every respect on the same footing as vessels of the United States.

I am, etc.,

ALVEY A. ADEE,
*Second Assistant Secretary.*

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[Inclosure 16 in No. 284.]

*Mr. Williams to the Governor-General.*

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Havana, August* 3, 1886.

EXCELLENCY: In compliance with that part of the royal order dated Madrid, the 20th of June, and published for execution by order of your excellency in the Gaceta of to-day, wherein it provides that it is the will of His Majesty the King of Spain that as soon as it is shown by the representative of the United States in Cuba that Spanish vessels pay the same rates of navigation dues in the United States as American vessels, the customs authorities of this island shall proceed in the exercise of a just reciprocity, and in harmony with the royal decree of the 4th of June, 1868, to apply the like rule to American vessels, I have the honor to inform your excellency herewith that I am specially instructed by my Government, under date of the 15th ultimo, to assure your excellency that, under section 14 of the act of June 26, 1884, printed copy of which is herewith annexed, Spanish vessels going to the United States are treated there in every respect on the same footing as vessels of the United States.

In view of this statement I beg your excellency to be pleased to consider this requisite of the said royal order as hereby fulfilled on the part of the representative of the United States in the island of Cuba.

I have, etc.,

RAMON O. WILLIAMS.

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[Inclosure 17 in No. 284.]

*Mr. Williams to the Governor-General.*

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Havana, August* 20, 1886.

EXCELLENCY: I am compelled to invoke the superior authority of your excellency to the end that the royal order issued at Madrid the 22d of June last, in answer to the complaint presented to His Majesty's Government by the minister plenipotentiary of the

United States, under the convention of the 13th of February, 1884, be fulfilled in this island, because its execution is debarred, notwithstanding your excellency's affirmative command in the Gazette of the 3d instant, by the instructive action of the central administration of customs of this island.

In order that your excellency may the better understand the grounds of the complaint of my Government, I beg to mention that on the immediate promulgation in Cuba of the convention of the 13th of February, 1884, by which a stop was put to the retaliatory duty charged by the Government of the United States of 10 per cent. on the invoice value of products of the islands of Cuba and Porto Rico, imported into the United States in Spanish vessels, and conversely to the differential import duties collected by the Spanish Government on cargoes brought in American vessels from the United States to these islands, the execution of the provisions of this convention by the customs authorities here was, at first, entirely in accord with the intention and understanding of my Government. But that just compliance was soon thereafter departed from, and as a consequence this originated the complaint of the United States, and for the satisfaction of which the royal order of the 22d of June last has been issued.

The first formal complaint against the action of the customs authorities in this matter took place in this port in the month of November, 1884, and grew out of a shipment of 286 bags of coffee, the product of the Republic of Venezuela, which were transshipped in the port of New York on the 16th day of that October of that year on board the American steamer *Saratoga* for Havana, upon which the customs authorities here collected import duties under the fourth column of the tariff instead of under its third column, making the excess of import duties thereby ascend to $57.56 Spanish bank bills and $308.11 in Spanish gold over and above what would have been collected from the importer had this coffee been transshipped in the American port of New York on board a Spanish vessel. I duly remonstrated against this action of the customs authorities in my communication addressed to your excellency the 17th of November, 1884, followed by my reminder of January 9, 1885, translated copies of which, together with copy of the answer from the political secretary, are herewith accompanied for the information of your excellency.

Your excellency will readily comprehend that the Government of the United States could never enter with another government into an agreement that would either directly or indirectly favor foreign shipping in American ports over American shipping; but this is exactly the meaning and effect of the interpretation given by the central administration of customs of Cuba to the convention in dispute. Could this ruling be permitted there, owing to the discriminating import duties collected in Cuba on merchandise not the product of the United States but transshipped on board American vessels in American ports and brought to Cuba, American vessels would thereby be practically excluded from the right of loading in American ports such bonded goods as East Indian, West Indian, or South American coffee, Newfoundland salted fish, jerked beef of Buenos Ayres, East India rice, or Chinese groceries, or other products of foreign countries for Cuba, whilst this right would be enjoyed by Spanish shipping. Now, this conclusion is nowhere deducible from the convention of the 13th of February, 1884. To show, too, that His Majesty's Government is entirely in accord with the opinion of my own Government in the matter, I have only to cite the promptness with which the royal order of the 22d of June last has been issued in response to the complaint of the Government of the United States. This proof of accord between the two Governments is furthermore made manifest by the words of the Spanish Government, wherein, giving its reason for transmitting to your excellency this royal order for execution, it says:

"To the end of showing the good disposition of Spain respecting the United States, and the good faith with which it attempts the fulfillment of treaties, it has ordered, in ratification of what is established in the royal order of the 13th of September, 1884, that the American flag in the direct commerce with the islands of Cuba and Porto Rico *be equalized completely with the Spanish flag in the carrying of products and articles not the products of the United State.*"

This language clearly means assent to the solicitation of my Government and not refusal, as is pretended by the central administration of customs of Havana.

It means assent and nothing else; for otherwise my Government would not have considered it as a proper answer and settlement of its complaint; and when this royal order was accepted, it was in the confidence that it would be carried into effect in the same good faith so much particularized by its own words.

As your excellency must be aware, the convention of the 13th of February, 1884, though composed of so few clauses, is nevertheless one whose bearings upon the commercial relations of the two countries are of great importance.

In the first place, a tariff struggle in the commerce of the two countries that had lasted for fifty years was thereby terminated; for the retaliatory import duty of 10 per cent. charged by the United States on the products of the islands of Cuba and Porto Rico when carried there in Spanish vessels, and which prevented them in fact from partici-

pating in that trade, was removed, and they were thereby enabled to continue without interruption their circuit of voyages from Spain to the River Plate and Cuba back to Europe without having to take in ballast in the ports of these islands, enabling the Spanish shipping likewise engaged in the direct trade between the mother country and the colonies, and that sailing from other European ports, to return to Europe *via* the United States without having to do it in ballast, but loaded with the products of Cuba and Porto Rico—an advantage to Spanish shipping only to be appreciated when it is remembered that there is no longer sale in Europe, outside of Spain, for the sugars of Cuba and Porto Rico since beet-root sugar has taken possession of those markets.

This royal order has been accepted by my Government as a final settlement of the contention, and I feel assured that it will be greatly surprised to learn that its execution in Cuba is prevented by the opposition of a purely ministerial officer, whose action unless checked by your excellency's superior authority may give rise to a renewal of the tariff struggle which was so happily terminated by the convention of the 13th of February, 1884, a copy of which, together with that of the royal order of the 22d of June last, respectively promulgated in the Gazette of the 20th of April, 1884, and 3d of the present month, are herewith inclosed for the inspection of your excellency.

In conclusion, and in obedience to special instructions received from my Government, I now have the honor to ask your excellency to be pleased to order that the said royal order of the 22d of June last be executed in all its parts throughout this island: First, by the collection of import duties under the third column of the Cuban tariff upon articles not the product of the United States but brought therefrom in American vessels, equalizing thereby American with Spanish vessels; and, second, that equal and no more tonnage or navigation dues be collected from American vessels than are collected from Spanish vessels in the ports of Cuba, this office having already complied to this end with the requirement of the said royal order in my communication to your excellency under date of the 3d instant, wherein I gave the assurance that no more tonnage or navigation dues are charged on Spanish vessels than are charged on American vessels in the ports of the United States.

I have, etc.,

RAMON O. WILLIAMS.

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[Inclosure 18 in No. 284.]

*Mr. Williams to Mr. Porter.*

No. 489.] UNITED STATES CONSULATE-GENERAL,
*Havana, September* 9, 1886.

SIR: I beg to report that not having received any answer from his excellency the governor-general to the communication I addressed him on the 20th ultimo, invoking the exercise of his superior authority for the enforcement of the royal order of the 22d of June last, issued in relation to the convention of the 13th of February, 1884, that in consequence I called yesterday upon the intendente-general of the treasury, to whom it was submitted for examination and reply.

From my interview with him I regret to have to say to the Department that the matter does not appear to have had any attention from the intendente-general since my last visit to him on the 25th ultimo, as reported in my dispatch No. 472, dated the 26th of same. He told me that he had not yet received any answer from Madrid to his telegram asking for the explanation referred to in my dispatch mentioned above. I found him, as I thought, quite changed in his views, and agreeing with the central collector of customs (administrador central de aduanas), whose action has thus far impeded the carrying out of the royal order. He touched upon the word "ratificar" of the order (ratify), which he thought might have been intended for "rectificar" (rectify). But as I saw that this was tending to a mere play upon words and was going to end in a fruitless discussion, I interrupted him, saying that on the part of the Government of the United States there was no doubt whatever about the meaning of this royal order, and added that what I desired was a conclusive answer to my communication of the 20th ultimo, in order that I might be enabled to transmit it to my Government. He then promised me to take the matter up without waiting further for the telegraphic answer of the minister of the colonies at Madrid, who, he supposed, must be at some watering-place outside of that metropolis.

I have, etc.,

RAMON O. WILLIAMS.

[Inclosure 19 in No. 284.]

*Mr. Valdes to Mr. Williams.*

CENTRAL ADMINISTRATION OF THE ISLAND OF CUBA,
*Havana, September* 18, 1888.

SIR: Under this date the intendancy communicates to this center a telegram from his excellency the minister of the colonies, which I copy verbatim:

"Royal order of 22d June, 1886, ratifies and confirms that of the 13th September, 1884, in the understanding that the 3rd column of the tariff is applicable only to the natural products of the United States, proceeding from their ports and carried in their vessels directly to the Spanish West Indies; the equality of flag only embraces the said products under the condition mentioned, but in no case foreign products, even when brought in American vessels from the United States."

Which I have the honor to communicate to you as a definite reply to your official communication addressed to the intendancy, and which treats of this affair.

I am, etc.,

JOAQUIN B. VALDES.

## No. 987.

*Mr. Curry to Mr. Bayard.*

No. 322.] LEGATION OF THE UNITED STATES,
*Madrid, May* 22, 1888. (Received June 4.)

SIR: I have the honor to inclose a note from the foreign office, together with a translation, requesting that a resolution of the Chambers congratulating the Queen Regent on the ovation she has received on her journey from Madrid to Barcelona, and thanking the foreign nations for the honor done to Spain by sending squadrons to the port of Barcelona, be brought to the knowledge of the Government of the United States.

The Queen Regent on the 13th instant left Madrid *en route* for Barcelona, in order to be present at the formal opening of the exposition. She was accompanied by His Majesty Alfonso XIII, the two little princesses, and the president of the council of ministers, and the secretary of war. At Zaragossa, where the party tarried several days, and at every station on the railway, the Queen and the young King received most marked and enthusiastic demonstrations of respect and loyalty. Since her ascension to the throne the Queen Regent has steadily grown in popularity. Her tact, good sense, womanly and queenly virtues have gradually conquered prejudices, and now all parties, including even the republican, render homage and affection.

From the newspapers and private sources I learn that the *Quinnebaug* was the naval representative of the United States in the imposing ceremonial and display. The European powers had ordered thither many vessels, and nearly all the diplomatic corps had special instructions from their Governments to participate in the "inauguration" of the exposition and the honors done to the Queen.

I have, etc.,

J. L. M. CURRY.

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[Inclosure in No. 322.—Translation.]

*Mr. Moret to Mr. Curry.*

MINISTRY OF STATE,
*Palace, May* 19, 1888.

EXCELLENCY: I have the honor of informing you that the Spanish Chambers yesterday voted a resolution congratulating the Queen Regent on the ovation she has received on her journey, and thanking the foreign nations for the honor done to Spain by sending squadrons to the port of Barcelona.

As the United States has taken part in this manifestation, so flattering for Spain and for my august sovereign, I take pleasure in informing your excellency of the above, and in requesting you to be good enough to bring it to the notice of your Government.

I avail, etc.,

S. MORET.

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No. 988.

*Mr. Curry to Mr. Bayard.*

No. 324.] LEGATION OF THE UNITED STATES,
*Madrid, May* 26, 1888. (Received June 9.)

SIR: As the agreement between the United States of America and Spain, executed in Washington on September 21, 1887, and since renewed in Madrid, was approaching its limitation, June 30, I addressed a note to Mr. Moret, a copy of which is inclosed. In a subsequent conversation the minister for foreign affairs informed me that he had consulted the ministry, who had authorized him to assent to my proposition.

I have now the honor of inclosing the agreement as signed to-day, which, instead of expiring in six months, will be prolonged until an inclusive treaty of commerce is made between the two Governments, or until either of the signatory parties shall give two months' notice of a desire for its discontinuance.

As this arrangement supersedes the necessity for semi-annual renewal, and leaves either party as free as before, I trust it may receive the approval of the Department.

I have, etc.,

J. L. M. CURRY.

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[Inclosure 1 in No. 324.]

*Mr. Curry to Mr. Moret.*

LEGATION OF THE UNITED STATES,
*Madrid, May* 12, 1888.

EXCELLENCY: In our last interview, when I had the honor to call your attention to the prolongation of the *modus vivendi*, which expires by its own limitation on June 30 next, you expressed the purpose of the Government of Spain to agree to its renewal. This *modus vivendi* has been renewed from time to time after the lapse of six months. In negotiating anew the agreement I suggest the addition of an article like this:

"This agreement shall remain in force until the conclusion of a more comprehensive treaty between the two contracting parties, or until either of the contracting parties shall give notice to the other of its wish to terminate the same, and until the expiration of two months from the date of said notification."

The incorporation of such a provision will leave the continuance of the agreement, even more perfectly than under the present arrangement, within the control of the contracting parties, and also save the necessity of this periodical negotiation and renewal.

Trusting that your excellency may concur in the propriety of my suggestion, and asking early action, as I shall soon enter upon my summer vacation,

I avail, etc.,

J. L. M. CURRY.

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[Inclosure 2 in No. 324.]

*Protocol.*

The undersigned, in the name of the Governments of Spain and the United States, respectively, have agreed as follows:

First. The agreement in force between Spain and the United States of America signed at Madrid on the 21st of December, 1887, is prorogued.

Second. This agreement, which was to terminate on June 30 of this year, shall continue in force, by virtue of this prorogation, until the conclusion of a more extended treaty of commerce between the two parties interested, or until one of them shall give notice to the other of its desire to terminate the agreement two months before the date on which it desires such termination.

In witness whereof his excellency Don Segismundo Moret, minister of state, and Mr. J. L. M. Curry, envoy extraordinary and minister plenipotentiary of the United States of America in Madrid, have placed their hands and seals to the present document.

Done in duplicate at Madrid this 26th day of May, 1888.

[SEAL.] J. L. M. CURRY.
[SEAL.] S. MORET.

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## No. 989.

### *Mr. Bayard to Mr. Curry.*

[Extract.]

No. 298.] DEPARTMENT OF STATE,
*Washington, June* 12, 1888.

SIR: Your No. 324 of the 26th ultimo, inclosing the agreement signed by yourself and Mr. Moret prolonging the *modus vivendi*, has been received.

Your course is approved

I am, etc.,

T. F. BAYARD.

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## No. 990.

### *Mr. Bayard to Mr. Strobel.*

No. 321.] DEPARTMENT OF STATE,
*Washington, September* 8, 1888.

SIR: I inclose copies of two letters from Mr. Samuel Prewett, of Modena post-office, Mercer County, Missouri, who believes his wife to be interested in an estate left by a General Featheringill, alleged to have been in the Spanish army, and to have recently died in Spain.

If you can ascertain anything which may be of interest to Mr. Prewett you are instructed to communicate it to him directly.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 321.]

### *Mr. Prewett to Mr. Bayard.*

MODENA, MISSOURI, *August* 15, 1888.

DEAR SIR: I desire to know the proper authority or office to communicate with to learn of the standing of the estate of John Featheringill, a citizen of the United States, who is reported to have died in Spain, in Europe, not long ago and left a considerable estate to American heirs.

Please answer me as soon as convenient, as this is a matter of great interest to us, as my wife, Mrs. Elizabeth Prewett, was Elizabeth Featheringill, and a niece of John Featheringill, deceased, as aforesaid, in Spain.

I am, etc.,

SAMUEL PREWETT.

[Inclosure 2 in No. 321.]

*Mr. Prewett to Mr. Bayard.*

MODENA, MERCER COUNTY, MISSOURI, *September* 3, 1888.

DEAR SIR: Your kind answer to my letter of inquiry of recent date was duly received, and in reply I can only give a clipping from the National Tribune, of Washington, D. C., dated October 6, 1887, on page 8, first column. It reads as follows, to wit:

"*Obituary.*—General Featheringill, of Spain, has recently died, leaving $1,000,000 to American heirs. He was born in Kentucky, but after a roving life as a young man, enlisted in the Spanish army, and rose to brigade rank."

Now this is all the information of his whereabouts or death we have had for many years of him, if he be the lost uncle of my wife. His name was John Featheringill, and my wife's father was William Featheringill; there were seven of the family, five boys and two girls; her uncle John was born in Kentucky, as stated in the Tribune, and as we never knew of another family of the same name we think it must be my wife's uncle.

We think by communicating with the Spanish military authority, the full history of the "General Featheringill" may be obtained, which we hope you will do, and inform us as soon as received.

Some of my neighbors here state that they saw a more extended article in regard to "General Featheringill" in the National Tribune, copied from the Louisville, Kentucky, Courier-Journal, about October, 1887, but we can not now find the paper. Please answer me as soon as you can.

Truly yours,

SAMUEL PREWETT.

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## No. 991.

*Mr. Strobel to Mr. Bayard.*

No. 352.] LEGATION OF THE UNITED STATES,
*Madrid, September* 22, 1888. (Received October 6.)

SIR: Referring to the Department's No. 321 of the 8th instant, inclosing letters of inquiry of Mr. Samuel Prewett, concerning an estate alleged to have been left by a certain General John Featheringill, I have the honor to inclose my reply to that gentleman, for the information of the Department, in case other applications should be made for the same purpose.

The statement about General Featheringill published in the American newspapers is merely one of the many stories of unclaimed fortunes left in Spain by American citizens, none of which has ever been found to have the slightest foundation in fact. The legation has received during the past year innumerable letters of inquiry from members of Congress, lawyers, college professors, and representatives of all classes and conditions, all showing the interest felt in General Featheringill's fate. It is remarkable how wide a circle of friends and relatives the deceased in these cases are usually found to possess.

I have, etc.,

EDWARD H. STROBEL.

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[Inclosure in No. 352.]

*Mr. Strobel to Mr. Prewett.*

LEGATION OF THE UNITED STATES,
*Madrid, September* 22, 1888.

DEAR SIR: I have to-day received from the Secretary of State your letters of August 15 and September 3 asking for information concerning General John Featheringill. In consequence of the newspaper notices to which you refer, this legation has,

during the past year, been in receipt of numerous letters of inquiry of the same kind and made prompt application to the war department for all information existing in reference to General Featheringill. The minister of war replied that nothing was known of that gentleman, and that after diligent examination it appeared that no such officer has ever been connected with the Spanish army.

Very truly, etc.,

EDWARD H. STROBEL.

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## No. 992.

### *Mr. Bayard to Mr. Strobel.*

No. 325.] DEPARTMENT OF STATE,
*Washington, September* 26, 1888.

SIR: Referring to previous correspondence I inclose copy of a dispatch from our consul-general at Havana reporting that an order has been issued directing the assistant treasurer at Matanzas to return to the master the excess of tonnage dues collected last October from the American steamer *Jeanie*.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 325.]

### *Mr. Williams to Mr. Rives.*

No. 841.] UNITED STATES CONSULATE-GENERAL,
*Havana, September* 14, 1888.

SIR: With reference to my previous dispatches relating to the excess of tonnage dues collected last October from the American steamer *Jeanie*, against the stipulations of the present *modus vivendi* between the United States and Spain at the port of Cardenas, I have now the honor to inclose you the translation and a copy of a communication received last evening from the intendant-general of finance, by which I am informed that the assistant treasurer at Matanzas has been instructed to refund the sum of $572, without delay, in payment of the said excess.

I have, etc.,

RAMON O. WILLIAMS.

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[Inclosure 2 in No. 325.—Translation.]

### *Mr. Ossorio to Mr. Williams.*

OFFICE OF THE CENTRAL INSPECTION AND ADMINISTRATION
OF THE CUSTOM-HOUSES OF THE ISLAND OF CUBA,
*Havana, September* 13, 1888.

SIR: I beg to inform you in reply to your communication of the 8th instant that under this date I have instructed the assistant treasurer of Matanzas as follows:

"An investigation having been made consequent upon the protest of the master of the American steamer *Jeanie* against the amount of tonnage dues collected by the ustom-house of Cardenas upon said steamer in excess of the stipulations of the *modus vivendi* between Spain and the United States, his excellency the intendant-general has been pleased to order that the sum of $572 gold be refunded without delay by your office, with debit to the collections of revenues, which resolution is herewith communicated by order of his excellency, with inclusion of the documents that are to accompany the warrant of payment. Have the goodness to acknowledge receipt of the present communication, as also to advise this central office of the date when this payment shall have been made."

I am, etc.,

MANUEL OSSORIO.

## CORRESPONDENCE WITH THE LEGATION OF SPAIN AT WASHINGTON.

### No. 993.

*Mr. de Muruaga to Mr. Bayard.*

[Translation.]

LEGATION OF SPAIN IN WASHINGTON,
*Washington, January* 10, 1888. (Received January 11.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to inform the Hon. Thomas F. Bayard, Secretary of State, in compliance with instructions which he has just received, that the Government of Her Majesty contemplates carrying into practice various measures tending to prevent adulterations of wines and the counterfeiting of the marks thereof, which is so manifestly prejudicial to the wine-producing interests. In addition to the suggested measures, it is likewise proposed to submit for the royal approval the holding of an international congress at Madrid, the objects of which shall be, first, to consider and propose the most effective means of protecting the authenticity and ownership of marks (of wines); second, to propose at the same time the regulations which may appear most applicable to prevent and counteract the adulteration and falsification of wines.

The Government of Her Majesty considers the matter in question as of the greatest importance to all and each of the wine-growing countries, and would desire to know if the Government of the United States would be disposed to be represented in the congress aforesaid.

The undersigned, etc.,

E. DE MURUAGA.

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### No. 994.

*Mr. Bayard to Mr. de Muruaga.*

DEPARTMENT OF STATE,
*Washington, January* 19, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, communicating information of measures to be taken by your Government in favor of the wine product, and especially inquiring if this Government would be disposed to participate in an international congress at Madrid to consider the general subject.

The proposal of the Government of Her Majesty the Queen Regent is one of great importance, upon which this Government would not wish to act except in accordance with the wishes of Congress, but before ascertaining the views of that body thereon, it is thought advisable to consult with the Commissioner of Agriculture, in whose especial charge the wine-growing interests of the United States are placed, to whom accordingly a copy of your note has been transmitted.

Accept, etc.,

T. F. BAYARD.

No. 995.

*Mr. Bayard to Mr. de Muruaga.*

DEPARTMENT OF STATE,
*Washington, March* 17, 1888.

SIR: In your note of January 10 last you informed this Department that it was proposed to submit for the royal approval the holding of an international congress at Madrid, to consider and propose the most effective means of protecting the authenticity and ownership of marks of wines, and to propose such regulations as may appear most applicable to prevent and counteract the adulteration and falsification of wines, and, on behalf of your Government, you asked whether the United States would be disposed to be represented in the congress aforesaid.

Having referred the subject to the Department of Agriculture, I have now the honor to state that this Government is prepared to send representatives to such a congress, and I shall be glad to be informed whether it will be held and at what date.

Accept, etc.,

T. F. BAYARD.

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No. 996.

*Mr. de Muruaga to Mr. Bayard.*

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,
*Washington, May* 1, 1888. (Received May 1, 1888.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to inform the Hon. Thomas F. Bayard, Secretary of State, that the consul of his nation at Key West has informed him that a filibustering expedition is now ready in that port to effect a landing on the coast of Cuba, and once more to disturb the public peace and tranquillity in that island.

The so-called General Ruz is, according to all indications, the person who is to have charge of the expedition, and to this effect he has prepared (this being a matter of public notoriety) a force of from twenty-five to thirty men, and likewise a quantity of munitions of war and explosives, which are to form the material of the said expedition. These munitions of war are now stored partly in his own house and partly in the houses of Messrs. Urguiza and Yachaustegui, and also in that of Mrs. Henry Geiges.

The consul of Spain at Key West has already officially notified the collector of customs of these facts (as the honorable Secretary of State will find stated more in detail in the inclosed copy), and that Federal officer has asked instructions from the Treasury Department authorizing him to confiscate or seize the munitions aforesaid.

The undersigned, minister, feels confident that the United States Government will, without delay, issue the necessary orders to the proper authorities at Key West to prevent this expedition, confiscating at the same time the munitions of war in question, and bringing the delinquents to the punishment which they deserve, by reason of the constant

contempt which they manifest for the laws of hospitality of the United States, and of their tenacious and wicked perseverance in carrying robbery, murder, fire, and pillage into the territory of a friendly country, which is closely bound to the United States by ties of great moral and material strength, which ties, in their mad folly, they propose to sunder.

The undersigned, etc.,

E. DE MURUAGA.

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[Inclosure.]

*Señor Torroja to the Collector of Customs.*

KEY WEST, *April* 19, 1888.

DEAR SIR: Respectfully referring to our conversation of day before yesterday morning in reference to the filibusters of this city, I will further state that the so-called General Juan Fernandez Ruz claims to have twenty-five or thirty men perfectly armed and ready to follow him in an expedition against Cuba, but I fear that said Ruz will not go himself and will remain here in order to be able to keep on sending small expeditions, although it is a fact well known almost by everybody that there is an expedition ready to sail from this port. Another such general, Flor Crombet, is holding revolutionary meetings in this city and collecting funds with which he pretends to fit out expeditions against the said island of Cuba. I beg to call your attention to the foregoing facts, as well as to some reliable information that leads me to believe that the rifles, ammunition, and explosives are for the expedition, stored in boxes in a rear room of a house painted green on the Rocky Road—Dr. Yachaustegui's office and dwelling—and some ten rifles, flags, machetes, etc., are hanging up in Ruz and Colonel Urquiza's rooms at Mrs. Henry Geiges' house on the Rocky Road next to Dr. Yachaustegui. Geiges' house is painted white.

Hoping that the laws of the United States will enable you to take such measures as are necessary and proper to prevent such criminal acts against a friendly nation,

I remain, respectfully, yours,

JOAQUIN M. TORROJA.

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No. 997.

*Mr. Bayard to Mr. de Muruaga.*

DEPARTMENT OF STATE,
*Washington, May* 1, 1888.

SIR: I have the honor to acknowledge the receipt of your note, which reached my hand this morning, in relation to a projected filibustering expedition against the peace of the island of Cuba, alleged to be on foot at Key West, Florida.

I have hastened to communicate copy of your note and its inclosure to my colleague, the Secretary of the Treasury, and I have also sent a copy to the Attorney-General for such action as the officers of the Department of Justice may competently take toward the enforcement of the statutes of the United States in the premises.

As on previous occasions, I beg to suggest to you the advisability of causing the usual machinery of the law to be set in regular motion by due complaint, under oath, made by some one having knowledge or belief of the acts alleged to be in violation of law, and to this end I doubt not the agents of your Government at Key West will be cheerfully aided by the officers of the Departments of Justice and of the Treasury.

Accept, etc.,

T. F. BAYARD.

No. 998.

*Mr. Bayard to Mr. de Muruaga.*

DEPARTMENT OF STATE,
*Washington, May* 5, 1888.

SIR: In further response to your note, received on the 1st instant, in relation to the reported preparation of a filibustering expedition against Cuba at Key West, Florida, I have the honor to inform you that a letter from my colleague, the Secretary of the Treasury, apprises me that telegraphic instructions have been sent to the collector of customs at Key West to take prompt action in the premises and to consult with the United States attorney for the district touching the application of the pertinent sections of the statutes as regards the seizure of the arms mentioned by you and the arrest of the persons implicated.

I am also advised by the Attorney-General that the officers of his Department in Key West have been instructed to co-operate with the officers of the Treasury when occasion may require.

Accept, etc.,

T. F. BAYARD.

# SWEDEN AND NORWAY.

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## No. 999.

### *Mr. Magee to Mr. Bayard.*

[Extract.]

No. 110.] LEGATION OF THE UNITED STATES,
*Stockholm, January* 16, 1888. (Received February 1.)

SIR: On last Friday, the 13th instant, the board of trade for Sweden issued a decree forbidding the importation of American pork into this Kingdom, except that the same be well salted and cured.

I have no information on the subject, but I presume that the board of trade for Norway has or will issue a similar decree.

The issuance of this decree is the result of information received at the foreign department from the Swedish Norwegian minister at Washington that American pork is infected with contagious disease.

Such a disease, or a disease of an infectious character, has prevailed among swine herds in the two kingdoms for some time and the board is taking very active measures to stamp it out.

I have, etc.,

RUFUS MAGEE.

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## No. 1000.

### *Mr. Bayard to Mr. Magee.*

No. 64.] DEPARTMENT OF STATE,
*Washington, February* 4, 1888.

SIR: I have to acknowledge the receipt of your No. 110, of the 16th ultimo, informing the Department that on the 13th ultimo the board of trade of Sweden issued a decree prohibiting the importation of American pork into that Kingdom, unless it be well salted and cured, and that you presume that the board of trade of Norway will issue, if it has not already done so, a similar decree.

If, as you suggest, this action has been taken in consequence of information officially received at the foreign office from the Swedish and Norwegian minister here of the diseased character of American pork, and as the measure seems to arise from an attempt of the Swedish Government to stamp out the disease among swine, admitted to exist in Sweden, and as the enforcement of it is not unduly harsh and does not touch our well salted and cured pork it is not believed that any remonstrance can at present be made against this new decree.

You will see, however, by Mr. Pendleton's No. 546,* a copy of which I inclose you, that the German Government has prohibited the importation of Danish, Swedish, and Norwegian pork into Germany, and that there is ground for supposing that Mr. Anderson's intimation in his No. 168,† a copy of which I likewise inclose, that Germany is using pressure on Norway to exclude American pork, is well founded. You will therefore bear this in mind and keep a vigilant watch on any such possible indirect attempts to injure one of our great exports, using your best endeavors in judicious and likely ways to neutralize such designs.

I send you a number of Congressional documents on this question for your further information, and shall always be glad to have any observations or opinions of your own on this important subject.

I am, etc.,

T. F. BAYARD.

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No. 1001.

*Mr. Magee to Mr. Bayard.*

[Extract.]

No. 112.] LEGATION OF THE UNITED STATES,
*Stockholm, February* 8, 1888. (Received February 25.)

SIR: A new ministry for this Kingdom went into office to-day. The question which has so long disturbed the serenity of political affairs in this country has been temporarily, at least, settled by the formation of a coalition cabinet. Out of the ten ministers forming the council of state, six of the old ministry are retained.

The new ministers are, the prime minister, the ministers of justice, finance, and churches and schools. These four are protectionists.

This result has not been arrived at without infinite trouble, the main cause being the difficulty to find a person suitable for prime minister. Finally Mr. Bildt, the riksmarshal of the Kingdom, and formerly Sweden's envoy at Berlin, accepted the post. He is a man of capacity, but has reluctantly assumed the duties of the most responsible position in the Government.

The Liberals are of the opinion that it is not possible for a ministry constituted as is the present one to remain in harmony very long, and the Conservatives are not very sanguine of its long duration.

There is no doubt but that a protective policy will be adopted by the present Diet, but in a modified form as compared to what was first proposed. There are already express fears that any considerable tariff charges laid on breadstuffs might cause in Stockholm and other large places demonstrations on the part of the working classes that might result in unpleasant consequences. The rate of wages enables the working people to barely exist, and they do not contemplate the enhancement in price of food supplies without showing very strong signs of discontent.

The new ministry will not have the support of the people, not even their sympathy, in any measure it may bring forward changing the long-established policy of this Kingdom in reference to tariff taxes.

Any electoral appeal to the constituencies would result in the return of a Liberal majority in the Riksdag, and this the new ministry well

* For inclosure 1, see Doc. No. 433, *ante*, p. 585.
† For inclosure 2, see Doc. No. 326, *ante*., p. 478.

know. This perhaps will tend to make their policy more conservative than it might otherwise be. A few weeks will determine the matter.

The King goes to Norway on the 15th, where he has the same question of new cabinet. There is a very determined opposition to the present ministry of that country, at least a part of it, although the King regards the ones against whom the clamor is the loudest as his firmest supporters. He will, however, yield, as he has done in this Kingdom, and a new ministry in Norway with more liberal tendencies will be the result.

I am, etc.,

RUFUS MAGEE.

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No. 1002.

*Mr. Magee to Mr. Bayard.*

No. 114.] LEGATION OF THE UNITED STATES,
*Stockholm, February* 11, 1888. (Received February 27.)

SIR: In response to your circular dispatch under date of January 24 ultimo, I have the honor to report that I have addressed the department here requesting the publications relating to railways, and have supplemented the request by adding a number of interrogatories, with a view of eliciting additional information on the same subject.

I have personal knowledge of the construction of a part of a line of railway in this Kingdom the past year that is not without some interest from the fact that it is the most northern railway in the world.

A few years ago a company was organized, ostensibly English, to build a line of road commencing at a town named Luleå, on the north coast of the Bay of Bothnia; thence in a northwest direcion to Oföten, at the head of the West Fjörd on the Norwegian coast, in latitude 68° 50′ north.

The distance from Luleå to Oföten is about 300 English miles. At first quite an opposition was manifested against granting a charter to the company, it being charged that the enterprise was a Russian one, and by this means Russia could gain her long-desired wish of an outlet to the North Sea. Ultimately, however, the concession was granted, and the work has been under progress for two years. Dutch capitalists furnish the money while English enterprise is in control of the work. Seventy-two English miles are now finished. The formal opening of the line will take place in June of this year, to which ceremony I am invited.

The object of this road is to convey to the sea-board the iron ore found in the interior of the country and heretofore practically inaccessible. This ore is the richest in the Kingdom, running as high as 75 per cent., and it is expected a very great market will be created for it, especially in Germany, as its nearness, cheapness, and richness of quality will be potent factors in its contest with the Spanish ores, which are at present used in Germany.

The port at Oföten is open all winter, and vessels of the largest size can enter the West Fjörd. The Baltic ports are, however, closed after October, and remain so until the last of May.

Notwithstanding the extreme degree of cold in that latitude (the railway crosses the Arctic circle), I am informed men can work in the mines and forests without much discomfort, and that no difficulty is experienced in procuring laborers.

No. 1003.

*Mr. Magee to Mr. Bayard.*

No. 116.] LEGATION OF THE UNITED STATES,
*Stockholm, March* 6, 1888. (Received March 20.)

SIR: By my number 115, under date of the 15th of February, I had the honor to give you a brief résumé of the amounts in tons of the importation of nine leading articles into this Kingdom for the year 1886. Also the amount in tons of the direct exportation in iron from the Kingdom to ports in the United States, as well as the number of emigrants embarking from Swedish localities for the United States for the same period.

At present this trade is carried almost exclusively in English, or ships of nationalities other than of the two countries. This is perhaps caused from the fact that the Swedes have not the capital to invest in an ocean steam-ship line, while Americans have not the privilege. I am, however, impressed with the opinion that if the carrying trade between the two countries was controlled by either or both conjointly there could be a very material increase in the volume, and in this belief I am supported by the results of the increased exportation and importation with Denmark and Norway since the establishment of the Thingvalla line, the only direct line connecting New York with Scandinavian ports.

If American capitalists could be induced to invest money in such an enterprise, I am satisfied that satisfactory returns would result to them. The outward cargoes from here are assured in the two items of emigration and iron, while the statement I have given you showing the amount of freight in tons would furnish return cargoes. The advantage in such a line would be in the fact that no transshipment would have to be made, as is now the case.

Sweden is a large consumer of foreign manufactured articles, as well as of meats and breadstuffs, and there is some partiality shown for those of American manufacture and produce. Some enterprise on the part of those engaged in trade in the United States—some effort to increase it in this country—could not otherwise than be attended with satisfactory results. As a rule the Swedish buyer is responsible, and the American seller would run no extraordinary risk in giving the usual credit. Such a policy would likewise enlarge the field for the American producer in a country where a return for his products would be attended with reasonable safety and profit.

The United States should furnish the people of this Kingdom with breadstuffs, meats, etc., consumed over and above the amount produced in the country, as the products from America are as cheap in price and superior in quality to those of Germany or Russia, from whence at present large quantities of breadstuffs are purchased.

I am not inclined to attach much importance to the effect of the recent action of the Diet in placing a tariff on these articles. It will not become the settled policy of the country, and already there is much vehement opposition to the new ordinance. The popular sentiment of the country is against the present ministerial policy, and upon the reelection of members to the Diet the Liberals or free-trade party will come into power. The present tariff may, however, affect somewhat the amount of imports of these articles, but the American seller is no more affected by it than his German or Russian competitor. There is no reciprocity in German or Russian trade; the United States and Eng-

land are Sweden's largest customers. Hence the former country should furnish the great bulk of grain and meats, and might become a good competitor of England in all industrial branches.

A line of direct steam communication would be a valuable factor in producing this result. The proposition needs no elaboration of argument, but it is of such importance that I have thought it best to call your attention to the subject. My investigation of the trade condition in this Kingdom has satisfied me that here is a new field, comparatively, for the American manufacturer who desires to increase his trade, a field not limited to a few articles, but including almost all which enter into the domestic economy,

I have, etc.,

RUFUS MAGEE.

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No. 1004.

*Mr. Magee to Mr. Bayard.*

[Extract.]

No. 117.] LEGATION OF THE UNITED STATES,
*Stockholm, March* 11, 1888. (Received April 2.)

SIR: I have the honor to acknowledge your No. 67, under date of February 24 ultimo, inclosing copy of dispatch of Mr. Anderson, minister resident of the United States at Copenhagen.

Since I informed you of the action taken by the board of trade for Sweden in reference to the importation of American pork into this Kingdom, I have endeavored to keep myself acquainted with the sentiment in regard thereto, not only in Sweden but in Norway as well. Up to date Norway has taken no action in the matter. I have just had a conversation with Mr. Carl Bildt, first secretary for foreign affairs for this Kingdom, who returned on Friday from Norway, where he accompanied His Majesty, and where he remained four weeks, and he has assured me no action has been taken by the Norwegian Government upon the subject, and none contemplated. My information, derived from Mr. Gade, United States consul at Christiania, is of the same tenor. I have no reason to doubt the trustworthiness of these representations.

Mr. Bildt assures me that the German Government has made no communication to the Government of the United Kingdoms on this subject.

On the 7th instant, as you have undoubtedly been notified, Denmark, by proclamation, forbade the importation of American pork, and moved, perhaps, to this conclusion as much from the act of the Government of the United States in excluding Danish pork from her markets as the fear of swine-disease contagion. It was a measure more in retaliation than in any well-grounded fear of the effects of infected imported meats.

The disease which has so seriously affected the herds in this country is traceable directly to the importation of live hogs from Germany into the Kingdom of Sweden last fall, and it is not claimed that American imported meats had anything to do with the origin or spread of the disease. As a precautionary measure, however, the national board of trade directed that all imported meats should be "well salted," and this regulation was directed against meats coming from all countries importing meats into this Kingdom.

I think it advisable, if you permit me the suggestion, to furnish me with any reliable data that may be obtainable as to the extent, character, and effect of the disease in swine herds in the United States, with a view, if you should approve the same, of presenting the matter to the board of trade and if possible of inducing that body to relax somewhat the present regulation.

There is a good deal of ignorance and prejudice existing in these Scandinavian countries upon the subject of animal disease in the United States, and the long and prejudiced action of both France and Germany upon this subject has not been without its effect upon the people of the United Kingdoms.

Food supplies are subjected to careful inspection in these countries and those which are unwholesome or adulterated are prohibited from sale, and hence a mere rumor that American meats are tainted with a contagious disease is enough to put the board of trade on the alert. I am inclined to think much of their pretended information rests solely on rumor. It is possible to counteract this to some degree, and hence if I were supplied with any reliable evidence upon the subject I would submit it to the board and personally represent the interests of the United States in a much different light than has been done heretofore.

I have had a conversation with the secretary of the interior upon the subject, but it was informal. By this conversation I learned that his excellency's information was neither extensive nor accurate. I therefore ask for such information as will enable me to meet the objections to the importation of American meats as may be made in either of the kingdoms, if in your judgment it would be of advantage to the trade to submit the same.

have, etc.,

RUFUS MAGEE.

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No. 1005.

*Mr. Magee to Mr. Bayard.*

[Extract.]

No. 119.] LEGATION OF THE UNITED STATES,
*Stockholm, March* 20, 1888. (Received April 9.)

SIR: His Majesty returned from Christiania on Sunday last, where he had been for six weeks past. A new cabinet was formed for Norway, and, for the present, the disturbing questions in that Kingdom have been postponed.

The prime minister for Norway, Mr. Johan Sverdrup, was many years the leader of the Liberal party, but in 1884 he became a Conservative and accepted office—forming a cabinet which remained in power until the present year. He is again intrusted, as chief of the cabinet, with the affairs of the Kingdom. Two new ministers take the place of two of the old ones.

There are three parties in Norway politics, the Liberals, the Conservatives, and the Church party. By a combination of the last two they have a majority over the former; but this combination is not always to be obtained, as the Church party has liberal tendencies on all questions not affecting the church.

The Liberal party desires a new "parliamentary system," as they term it, a reform that would abolish the present bureaucratic one and

which would introduce a larger democratic spirit, and one much more in harmony with the sentiments of the people.

Norway citizens are heavily taxed and the Liberal party proposes to reduce taxation, abolish offices, and retrench the expenses of the Government generally. It is, therefore, the popular party, and could it harmonize with the clericals upon the church question would to-day be in power. At present this is impossible, and hence the present Conservative cabinet will remain for another year.

Norway, perhaps, of all countries in Europe has more of democratic sentiment coupled with the very best capacity for self-government.

Theoretically these peoples are a constitutional monarchy; practically they are as free and independent as the English nation.

Norway pays what is equal to $130,000 a year to the support of the royal household, and there is a serious endeavor in the Kingdom to lessen this amount.

I have, etc.,

RUFUS MAGEE.

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No. 1006.

*Mr. Magee to Mr. Bayard.*

No. 122.] LEGATION OF THE UNITED STATES,
*Stockholm, April* 18, 1888. (Received May 7.)

SIR: By my No. 114, under date of February 12, I had the honor to give you some information about railroads in this Kingdom. It was very meager, and related principally to the line now being built north of the Arctic Circle.

Since that time I have received, in response to inquiry addressed to the interior department, fuller information on the subject.

Under date of February 14 I addressed a note to the department, in which I submitted eight questions, and to which I asked replies. My purpose was to elicit fuller information than I was enabled to gather from the voluminous volumes of statistics furnished by the department, the latest of which was for the year 1885.

During the year 1887 there were 17 English miles of state and 52 miles (English) of private railroads constructed and opened for traffic.

The state railroads are managed by a separate department called the "royal administration of railroad traffic." The private roads are managed through boards of directors annually chosen by the share-owners.

The royal administration exercises a supervisory control over the private roads, sees that the lines are kept in repair, regulates traffic, fixes rates, etc., which require the approval of the King. Tax assessments are likewise fixed by His Majesty. Regulations of service for both systems are made by the royal administration. The King appoints one director on the board of a private corporation that has received assistance from the state, and also appoints agents to audit the accounts of such railroads, and to report to him upon their management.

There were 1,551 miles of state and 3,040 of private railways under operation at the close of the year 1887.

The cost of building and equipment of state roads (1,551 miles) up to the 31st of December, 1887, amounted to $63,946,721. The cost of the private roads for the same period amounted to $68,437,564 for 3,040 miles.

The surplus, after cost of maintenance and operating expenses were deducted, amounted on the state roads to 2.41 per cent. on the amount invested, while on the private roads the per cent. was 3.54.

The state has assisted some private roads with loans, and allows generally the private roads to use crown lands, rock from crown quarries, and gravel necessary for construction. The state has loaned to private roads, for which it holds the bonds of the companies, the sum of $12,893,555. It has for the same purpose appropriated, without obligation for repayment, the sum of $1,053,992.

The amount of the funded debt created in constructing railroads is $65,548,861, and the interest thereon is at an average of 4 per cent. *per annum*. The revenues of the state roads, as well as of roads that have been assisted by the state, are deposited in the state bank. If there is a deficit in the revenue the state appropriates, in case of state railway, sufficient to meet the requirement. The share holders of private corporations must take care of their obligations.

I may add that the railway service in this country, in construction, equipment, convenience, cleanliness, promptness, is far superior to what I have ever seen in Germany, France, or Belgium. There are usually four classes of wagons. The large majority of passengers ride in the third and fourth class. First-class carriages are more expensive than the best service on American railways. The rate of speed is only about 20 miles an hour, but this includes stops, which are very frequent, and are from three to thirty minutes in length. The stations are large, usually constructed of either stone or brick, well lighted and warmed in winter time, and have always connected with them a good café or restaurant. No person can enter a compartment without a ticket, and all tickets are shown and punched before the train leaves the station. All passenger-cars are heated by steam and lighted by gas. Each train is moved by signals, and from the moment of arrival to its departure from the station is under the authority of the station-master. Every employé is uniformed and bears a badge designating his position. Every six English or one Swedish mile there is a signal-house, with telegraph apparatus, and occupied by two persons, called track-walkers. Upon the passage of a train it is signaled ahead, while the men walk in opposite directions on the track one-half the distance to the next signal station for the purpose of inspecting the road. Every possible precaution is taken to prevent accidents, and in my now nearly three years' residence in this country there has not been a life lost in the railway service or any accident.

No one is permitted to walk or be on or within the right of way or to loiter about stations or grounds of the company. The masonry used in the building of piers, abutments, etc., is of the most substantial character, while all bridges, culverts, and trestle-work are of iron. The track is usually ballasted with gravel, with stone gullies to carry off the water, while the banks or sides of both cuts and fills are sodded. The railroads of no country can possibly be superior or even equal to those of Sweden in respect to construction, and they well might serve as models. There is perfect security and much more than ordinary comfort in traveling, the only drawback to the American traveler being the slowness of time. The roads are managed in the interests of the people. There is no speculation in their shares, there is no adverse criticism of their management, and the total results are that, so far as it goes, it is one of the best, if not the best, railway system in the world. Certainly in many respects it is superior to American.

There is but one road at present under construction by the state. That is a road leading from Sundväll, 225 English miles north of Stockholm, running interior from the Baltic coast to Umeä. The physical difficulties in constructing this line are very great; there is a large number of rivers, fjords, and streams to bridge, together with granite-rock excavation. The line can never be remunerative, but it is undertaken by the state as a matter of defense. The Russian Government has constructed a line of road from Helsingförs, on the Gulf of Finland to Ulläborg, on the Bothnia, and is building a line from the latter point to Haparanda, at the head of the Bay of Bothnia, at the extreme western limit of its territory. Sweden feels apprehensive, and hence is building the line I have mentioned. Russian troops could be sent from Äbo or Helsingförs in two days, and without equally as speedy communication with the north Russia might gain her long-desired object, viz, a port on the North Sea, as well as become the possessor of the road now being built from the Bothnia to the Gulf of Oföten, and to which I had the honor to call your attention in my No. 114.

I have, etc.,

RUFUS MAGEE.

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No. 1007.

*Mr. Magee to Mr. Bayard.*

No. 135.] LEGATION OF THE UNITED STATES,
*Stockholm, July* 21, 1888. (Received August 6.)

SIR: I have the honor to transmit you under this date, in separate cover, a printed copy of the "Tull-Taxa," or tariff laws of the Kingdom of Sweden.* These laws were enacted at the recent session of the Diet, and went into force by royal proclamation July 1, current. I have marked the principal items imported from the United States, upon which duties are imposed. Cotton, and the products of cotton, are exempt. After the year 1888 coal-oil is on the free list. Breadstuffs, meats, sugars, coffees, and tea are made dutiable.

The manufacturing interests are not specially benefited, while spirits of all kinds and tobacco in its various forms are heavily taxed.

The bill is framed in the interest of the estate proprietors, who hope to increase their profits derived from agriculture by taxing the food supplies of the people. This present result has been reached only after a long and bitter contest extending over some years, and through the operation of the election laws, which gave the conservative party a majority of the Diet, while the popular vote was very largely against that party.

It is too early to judge of the effect of the law, except to say that it is not popular. It is an entire change from the policy maintained in the Kingdom for years, and I doubt that it will be of long continuance.

I have, etc.,

RUFUS MAGEE.

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*Not printed herewith.

## No. 1008.

### *Mr. Bayard to Mr. Magee.*

No. 96.] DEPARTMENT OF STATE,
*Washington, August* 17, 1888.

SIR: I inclose herewith copies of a telegram of the 16th instant, from J. W. Wegner, esq., district attorney at Milwaukee, and of another of the 17th instant, sent you from this Department through our consul at Liverpool, relative to the extradition from Norway of Albert Erbers, *alias* Eberson, on charges of attempted murder and forgery in Wisconsin.

As it appeared from Mr. Wegner's telegram that Mr. Russell (consul) knew the address of the fugitive in Norway, he was directed to inform you of it.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 96.—Telegram.]

*Mr. Wegner to Mr. Bayard.*

MILWAUKEE, WISCONSIN, *August* 16, 1888.

Hon. THOMAS F. BAYARD,
*Secretary of State:*

We want for attempted murder and forgery Albert Erbers, *alias* Eberson, who is now in Norway. If possible under treaty, instruct Consul Russell, Liverpool, who knows the case and the man's address. Also inform me what evidence is needed.

JOHN W. WEGNER,
*District Attorney.*

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[Inclosure 2 in No. 96—Telegram.]

*Mr. Adee to Mr. Russell.*

DEPARTMENT OF STATE,
*Washington, August* 17, 1888.

RUSSELL,
*Consul, Liverpool:*

Send following to Magee, minister, Stockholm:

"Ask detention for extradition of Albert Erbers, *alias* Eberson, charged with attempted murder and forgery in Wisconsin, now in Norway."

Wegner, district attorney, Milwaukee, says you know Erbers' address. Inform Magee.

ADEE.

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## No. 1009.

### *Mr. Magee to Mr. Bayard.*

No. 136.] LEGATION OF THE UNITED STATES,
*Stockholm, August* 27, 1888. (Received September 12.)

SIR: I have the honor to inform you that on the evening of the 19th instant I received a telegram from Mr. Russell, United States consul at Liverpool, transmitting a copy of cablegram received from Mr. Adee, by which I was instructed to ask the royal foreign office to cause the apprehension and detention of one Albert Eberson, a Swede, charged in the Wisconsin court at Milwaukee with attempted murder and forgery. I at once saw the under-secretary for foreign affairs, read him the

telegram, and requested him to give it his immediate attention. This he did. Up to this date no information has been received at the royal foreign office of Eberson's apprehension.

If he should be arrested it would be necessary, before this Government would surrender him, to have certified copies of the indictment pending against him at this legation, as well as some person to identify and receive him on surrender by the authorities here. During my conversation with the under-secretary he remarked that if Eberson was not a naturalized citizen of the United States they would not surrender him if taken into custody. They would, however, if arrested, hold him until satisfied upon this point. To this I made no reply, judging that it was best to await our coming to that question before we concluded it.

If Eberson should be arrested I will at once cable you, and perhaps I should be informed by cable as to subsequent proceedings desired in the premises.

I have, etc.,

RUFUS MAGEE.

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No. 1010.

*Mr. Magee to Mr. Bayard.*

[Telegram.]

STOCKHOLM, *September* 9, 1888.

BAYARD,
*Secretary, Washington:*

Albert Erbers, *alias* Eberson, is arrested.

MAGEE.

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No. 1011.

*Mr. Bayard to Mr. Magee.*

No. 99.] DEPARTMENT OF STATE,
*Washington, September* 12, 1888.

SIR: I inclose herewith copies of letters from our consul at Christiania and from the secretary of the State board of health of Iowa, relating to the deportation of persons afflicted with leprosy from Norway into the State of Iowa.

You will bring the matter to the attention of the Norwegian authorities, and inform the consul at Christiania of the statement made in Dr. Kennedy's letter that the affected persons came to the United States from Stavanger, Norway.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 99.]

*Mr. Gade to Mr. Kennedy.*

CONSULATE OF THE UNITED STATES OF AMERICA,
*Christiania, August* 15, 1888.

DEAR SIR: I am in receipt of your favor of July 14, relating to the importation into your State of two cases of leprosy from Norway, and understand your indignation at this introduction of a most dangerous disease.

In my consular district, which only embraces the southern and eastern Norway,

hardly any cases of leprosy are to be found, while there are about 1,300 persons who at the present moment are known to be affected with leprosy in this country scattered all over the western and northern districts. It is a fact, fully established by the annual statistics published by the Government's board of health, that the number of lepers is constantly and rapidly decreasing. While in 1860 the lepers who lived outside the asylum numbered 2,223, only 633 were to be found at the end of 1885. In the latter year 15 new cases had been discovered, 63 had died, 55 had been removed to the asylums, 15 had left their former districts (in some cases perhaps also the country), and 7 cases were cured. At the end of 1885, 524 (255 of whom were men and 269 women) remained at five asylums established for the treatment of lepers. Seventy had died during the course of the year. On the whole, it is believed that leprosy will gradually disappear from this country, or at least be confined to some few districts on the coast, where the people are poor, and occupied with fishing in a hard climate.

Relating to the two cases of leprosy recently imported from the district of Stavanger, into your State, I venture to say that the local authorities of the district were entirely ignorant of their going to America, and that at least no purpose of getting rid of the unhappy sufferers did exist here. Everybody is allowed, without any restriction, to emigrate from Norway, and the two women in question, who probably have relations in Iowa, had only to go to Stavanger and Bergen and buy their tickets for the passage, without communicating beforehand with any of the local authorities. A very superficial medical examination of emigrants is ordered at the shipping ports, but the examiners would hardly have any time for discovering those affected by leprosy without being previously informed of their disease and of their intention to conceal it.

It would certainly be of interest to know the name of the parish whence the two women hailed. It might then be ascertained through the pastor of the locality, who would know them and their families, and whether it was known that they had gone to America. It might then be ascertained from what source they had got their passage-money, and whether they ever had been assisted by the poor board or others. The district of Stavanger is not a specially infected district, as you seem to believe. At the end of 1885 it had only 56 lepers living out of the asylums, while the district of Northern Berzenhuns had at the same time 156. I am bound to repeat, that in my opinion no authorities of that district would have thought of throwing off the two leprous women to let America take future charge of them.

The regulations now in force regarding the lepers in Norway are contained in the law of June 6, 1885, on separation of lepers and treatment of them in public asylums or hospitals. The law prescribes that lepers shall not be lodged with private people at public expense, but in case of needing public assistance they shall, by the poor boards, be admitted to the public asylums.

If destitute lepers are not treated in such asylums, they shall either be kept in separate dwelling rooms or be treated in such way as the boards of health may deem it sufficiently safe.

The law prescribes also that other lepers (besides the destitute ones) may also be ordered by the boards of health to live separated from their family and friends, and if such order should be disobeyed, they shall be treated at the public asylums.

Rooms, clothing, bedding, and other effects which have been used by lepers must not be in use or be handed over to other persons without being previously disinfected by order of the respective boards of health.

The proper way to prevent lepers from emigrating to America in the future would, in my opinion, be to bring the subject before the American Government, which then probably would insist, with the Government of Norway, that a strict and scrupulous medical examination be made of all emigrants from the western districts of Norway. It is not in my power as consul at Christiania, where no leprosy exists, to take any steps against that emigration of which you justly complain. I will add to my foregoing observations that I am aware that more than ten years ago leprosy was introduced into the Northwestern States of the United States through emigants from Norway, and that Professor Boeck, the celebrated dermatol gist, had himself made careful inquiries in America about the Norwegian people there who had brought the disease with them from the old country. Also last winter Dr. Armauer Hanser, a well-known specialist in the treatment of leprosy, went to America to visit there lepers of Norwegian origin.

I have tried to give this important subject my best attention, and will be glad to learn that through diplomatic intervention some effective means may be found to stop further introduction of the disease into the United States. If I can do anything to attain this end I will consider myself very happy.

Yours, etc.,

GERHARD GADE,
*United States Consul.*

P. S.—I inclose herewith for your further information a copy of the law of June 6, 1885, above referred to. You will easily find a Norwegian as your neighbor competent to translate it into English if you should wish to.

[Inclosure 2 in No. 99.]

*Mr. Kennedy to Mr. Allison.*

IOWA STATE BOARD OF HEALTH,
*Des Moines, September* 1, 1888.

DEAR SIR: I desire to call your attention to the inclosed letter from Gerhard Gade, United States consul at Christiania, Norway, replying to a communication from this office in regard to the exportation of lepers from Norway into this State.

In March was reported to the State board of health a case of leprosy in the person of a young woman, aged twenty-four years, recently arrived direct from Stavanger, Norway. She had been affected for ten years. The local health officers took cognizance of the case, and directed that she be sent to her brother at Chicago, where she could be placed in hospital. He refused to receive her, and she was taken to her father near Le Grand, Marshall County, where she now is.

In June another case was reported from Le Grand, also recently from Stavanger, a married woman in an advanced stage of the disease, and which rapidly progressed to a fatal termination August 11.

In both these cases there was studied effort made to conceal the disease, the true nature of which was revealed only by persistent questioning of the attending physician.

Now, it must have been known to the health authorities of the place whence these women came that they were lepers, or from leprous families.

As may be readily supposed, the people of Iowa are greatly alarmed at this evidently intentional importation of that horrible and contagious disease into this State. We therefore pray you, as their representative, to take such immediate measures as may be deemed necessary to prevent such outrages.

Consul Gade suggests previous medical examination, but that is not sufficient. The prohibition should include also all persons known to be of leprous families; for the incubation period of leprosy varies in different individuals from a few weeks or months to ten years. It not unfrequently skips a generation, so that a medical examination would not detect an infected person in whom the incubation was slow.

Consul Gade will be further advised, so far as possible, to aid in tracing the initial point of these cases, and how and why they came to Iowa. Their friends here are very reticent regarding them.

Whether the necessary relief can be had through the Secretary of State or only by act of Congress you are best informed.

We earnestly ask that you give the subject early attention.

Very respectfully,

J. F. KENNEDY, M. D.,
*Secretary.*

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No. 1012.

*Mr. Bayard to Mr. Magee.*

No. 100.] DEPARTMENT OF STATE,
*Washington, September* 13, 1888.

SIR: I have received your telegram of the 9th instant, informing me that in compliance with my No. 96, of the 17th ultimo, "Albert Erbers, *alias* Eberson, is arrested."

The governor of Wisconsin and the district attorney of Milwaukee have been so advised.

I am, etc.,

T. F. BAYARD.

No. 1013.

*Mr. Bayard to Mr. Magee.*

No. 104.] DEPARTMENT OF STATE,
*Washington, September* 21, 1888.

SIR: I transcribe for your information copy of a telegram I have just received from the governor of Wisconsin:

I have this day made request on your Department for surrender of Albert Eberson, under arrest in Stockholm, charged with attempted murder in this State.
J. M. RUSK.

I am, etc.,

T. F. BAYARD.

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No. 1014.

*Mr. Magee to Mr. Bayard.*

No. 141.] LEGATION OF THE UNITED STATES,
*Stockholm, September* 30, 1888. (Received October 13.)

SIR: On the 9th of the present month I had the honor to telegraph you that Albert Erbers, *alias* Eberson, a fugitive from justice from the State of Wisconsin, had been arrested. His arrest took place in Sweden, and he is now confined in the detention prison at Christiania awaiting identification.

I have had several interviews with the secretary of foreign affairs here in relation to the ultimate surrender of Erbers, *alias* Eberson. The question which must be determined satisfactorily to the authorities is: Is Erbers, *alias* Eberson, a naturalized citizen? If not, he will not be surrendered unless he should go back voluntarily.

At my request the authorities at Christiania have made inquiry of the prisoner touching this point. He admits that he voted at three different elections in Wisconsin, but he claims that he has never been naturalized.

The department here say to me that if Erbers is not surrendered to the authorities that the Royal Government will cause proceedings to be taken against him with a view to punish him for the crime committed in Wisconsin.

I have asked the department to ascertain if Erbers will return voluntarily to America. If so, I could perhaps arrange to have him sent in the custody of an officer of the Thingvalla line of steam ships, thereby saving quite an expense. I will know the latter part of the week if Erbers is willing to go back.

I have not yet received copies of the indictment, or any information touching his alleged crime, except that conveyed in a letter to me from Mr. Russell, consul for the United States at Liverpool. The royal foreign office has acted with great promptness in this business, and the only question upon which it will require proof is the one of citizenship. The mere fact that Erbers has voted will not be sufficient to warrant consent to his extradition. I will, however, do what I can to procure him to consent to waive this and return to Wisconsin. He may do so if he learns, as he will, that he can be punished here.

I trust my Wednesday mail may bring the necessary papers.

I have, etc.,

RUFUS MAGEE.

No. 1015.

*Mr. Magee to Mr. Bayard.*

No. 142.] LEGATION OF THE UNITED STATES,
*Stockholm, September* 30, 1888. (Received October 13.)

SIR: I have the honor to acknowledge your No. 99, of date September 12, inclosing a copy of a letter from Mr. Gade, United States consul at Christiania, and a copy of a letter of J. F. Kennedy, M. D., of Des Moines, Iowa, to the Hon. W. B. Allison, relating to the emigrating from Stavanger, Norway, to Iowa, of two person afflicted with leprosy.

I went to the royal foreign office upon the receipt of your instruction and reported the facts as given in the letter of Dr. Kennedy. I have also addressed the department a note upon the subject. I had a long and interesting conversation with the secretary, in which we discussed the present emigration laws and kindred subjects. I was assured that whatever the royal department could do in preventing such emigration in the future would be done, but it is impossible to make any regulation that can not be avoided. I have heretofore called attention of United States consuls to the necessity of exercising great watchfulness as to the character and condition of emigrants and to prohibit all objectionable persons from embarking.

I have no reason to think consuls are derelict in their duties. No person can leave either of the United Kingdoms without a certificate as to their condition, etc., from either the pastor of the district in which such intending emigrant has resided, or the chief of police. The consul at the embarking port has the right to see this certificate; this, perhaps, is neglected; captains of vessels are much to blame; they never question an emigrant, but accept all who offer. It is a very easy matter for persons coming within the objection to go to a Danish, German, and English port, and from one of these, go to the States. It is possible that the two leprous women referred to in Dr. Kennedy's letter went in this way. The department will institute an inquiry and ascertain if any Norwegian pastor or police officer issued to these women a certificate.

The Royal Government does not encourage emigration and looks with much disfavor upon the fact that a large number of its most active young men and women leave the country annually for America, and would gladly restrict the number if it could. The number of emigrants last year was almost equal to the increase in population. Naturally abuses of emigrant laws exist, and until the Government of the United States takes some steps to restrict the promiscuous inflow of emigrants from all nations of Europe, evils such as are complained of in Dr. Kennedy's letter will continue to occur. The steam-ship company and emigrant agent cares nothing for the character or condition of the emigrant, but is intensely interested in getting all the passage money possible. They are the active and pernicious agents who encourage by low rates the poor, improvident, sick, helpless, and worthless to go to America, where they hope to better their fortune. If the captain of the vessel who received the leprous women could be punished by a term of imprisonment it might have a salutary effect upon others. The emigration evil is no greater one than that of the foreign-born citizen who resides long enough in the United States to make his declaration of intention, and then, armed with his declaration, bearing the broad seal of some court, returns to his native country to live, and when asked to perform his military or other duty refuses and appeals to a legation or

consulate for aid. He is always an extremely objectionable person to the government in which he resides, and is a constant source of irritation and annoyance. This evil could be lessened by requiring an emigrant to reside in the United States for at least five years before he could make his declaration, and ten or more before he could be finally naturalized. No woman over the age of twenty-five, unless married, ought to be permitted to emigrate, and no man over the age of fifty. Both of this kind of emigrants have passed that age when they can be of much value to such communities as form the United States.

I have given this subject of emigration attention. I have some very radical opinions that perhaps would be of little interest to your Department. It would be a great deal better we had no more emigrants from the United Kingdoms than that we should receive any from its criminal, pauper, or leper class. Under the present lax enforcement of the law governing this subject, we can not escape such evils as are presented by the Iowa cases. When such occurrences are brought to my knowledge I protest to the royal foreign office. I am assured in return that steps will be taken to prevent a recurrence, and I have to say in every instance to which I have called the attention of the foreign office I have had prompt and energetic action. But all this does not abate the constant outflow to America of objectionable classes. We hear of the pauper, the criminal, or the leper after his or her arrival.

I will inform you of the result of the inquiry that will be made into the cases referred to in Dr. Kennedy's letter.

I have, etc.,

RUFUS MAGEE.

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## No. 1016.

### *Mr. Magee to Mr. Bayard.*

No. 144.] LEGATION OF THE UNITED STATES,
*Stockholm, October* 20, 1888. (Received November 3.)

SIR: I have the honor to inform you that on last Saturday, the 13th instant, Messrs. McManus and Kœhler, officers from Milwaukee, Wisconsin, arrived in this city for the purpose of taking back with them one Albert Erbers, *alias* Eberson, a fugitive from justice from Wisconsin, and who was at that date confined in the prison at Christiania. In my former dispatches I called attention to the fact that the prisoner could only be extradited upon proof being made to the satisfaction of the Norwegian Government that Erbers had become a naturalized citizen of the United States. When the officers came to this legation I asked them if they had any such proof, when they informed me they had not. I had had several interviews with the royal foreign office in relation to the arrest and extradition, and had secured consent for the officers, upon their coming here, to take the prisoner back, provided he would voluntarily consent to go.

I accompanied the officers to the royal foreign office, where I delivered the papers relating to the case, together with my note demanding the delivery of the prisoner to the officers, also assuring the secretary that the persons present were the ones designated in the warrant of the President. The delivery of the prisoner was refused, except upon the condition above recited.

At my suggestion the officers went to Christiania for the purpose of

ascertaining if Erbers would return voluntarily with them. I gave them a letter to Mr. G. Gade, consul for the United States at that city, requesting him to render them all possible assistance to effect their mission.

Upon arrival at Christiania they had an interview with the prison officials and learned that Erbers had become insane, and although personally acquainted with the officers, failed to recognize them. The prisoner is now in the insane hospital for observation for the purpose of ascertaining whether his insanity is real or a mere sham. The officers left on their return Thursday last.

Is it desired, in the event that the prisoner is not insane, to have him punished here for his criminal act committed in Wisconsin? This can be done, as he has confessed before a magistrate to the forgery. He will be detained in custody until answer is made to this inquiry.

I have, etc.,

RUFUS MAGEE.

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No. 1017.

*Mr. Rives to Mr. Magee.*

No. 112.] DEPARTMENT OF STATE,
*Washington, November* 7, 1888.

SIR: I have received your No. 144 of October 20, 1888, reporting the refusal of the Royal Government to surrender Albert Erbers, *alias* Eberson, unless proof of his naturalization in the United States is produced.

Copies of your dispatch have been transmitted to the governor of Wisconsin and to the district attorney at Milwaukee.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

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No. 1018.

*Mr. Gade to Mr. Rives.*

No. 489.] CONSULATE OF THE UNITED STATES,
*Christiania, September* 4, 1888. (Received September 18.)

SIR: The last session of the Storthing, which adjourned about a month ago, made an important reform in one point of the common law of Norway.

The new law establishes the relations which a person claiming Norwegian citizenship must have to this realm. In accordance with the new regulations, any one applying for citizenship must fulfill conditions which establish the sincerity of his intention to settle in the country. The law regulates at the same time the heretofore unlimited and uncontrolled right of foreigners to hold or lease real estate in Norway. A special permission will henceforth be required in either case.

I beg to forward, herewith inclosed, a printed copy of an English translation of the law mentioned.

I am, etc.,

GERHARD GADE.

[Inclosure.—Translation.]

*Law of Norwegian citizenship.*

We, Oscar, by the grace of God, King of Norway and Sweden, the Goths and Vends:—
To all whom these presents may concern, greeting:—

Be it known, that to us has been presented the resolution, dated 17th April of the present year, of the now assembled Ordinary Storthing, as follows:—

SEC. 1. Norwegian citizenship is acquired at birth by legitimate children, whose father or mother at the time of the birth possessed Norwegian subject's-rights; and by illegitimate children whose mother had such rights. Children found within the realm whose parentage is unknown, or whose subject-relations can not be ascertained previous to such child attaining eighteen years of age, shall be considered as born of Norwegian subjects.

SEC. 2. Norwegian citizenship may be acquired by voluntary acts.

(*a*) By marriage of a foreign woman to a Norwegian subject.

(*b*) By assumption of a permanent residence within the realm, in so far as the resident has, in terms of section 92, *a*, *b*, of the law of the constitution* (*Grundloven*), the rights of Norwegian birth. This provision shall not, however, affect a native-born person who assumes a permanent residence within the realm by reason of an appointment in the service of a foreign government; nor a woman who, although she may be a native-born Norwegian, is married to the subject of a foreign state.

(*c*) By acceptance of an appointment in a public office; or by acceptance of a fixed appointment by the King or a Government department, as an officer in the service of the Norwegian state. In regard to offices or appointments in that public service which is a joint one for Norway and Sweden, this provision shall only affect such persons as possess native-born Norwegian subject's-rights, and who abandon the subject-relation in which they may stand to a foreign state.

SEC. 3. The rights of Norwegian citizenship may also be granted to other inhabitants of the realm by a special license by the King or the authority empowered by him. Such license shall, however, in general, be only granted to such as:—

(*a*) Have had a fixed residence within the realm for three successive years.

(*b*) Have acquired a legal domicile in a Norwegian poor's-district, or in such a manner as, according to circumstances, may be found sufficiently satisfactory to effect the object, provides a security against either himself or family becoming a burden upon the public poor rates before he can attain the qualification necessary to acquire legal rights of domicile, if the rights of citizenship were not immediately granted to him.

(*c*) Have attained majority.

(*d*) Do not occupy any of those positions which by section 52*a*† and section 53*a*† of the law of the constitution involve the suspension or loss of the right to the franchise. Whosoever desires, subject to those provisions, to become a Norwegian citizen, must present an application to that effect through the authority of the place where he resides, accompanied by all particulars of where he has resided during his stay within the realm, and in what other state he possesses the rights of a subject; also, by a declaration that, subject to the grant of the application, he abandons all subject-relation to that other state. If such abandonment of subject-relation requires by the laws of such other state the consent of its Government, or other authority, the applicant shall be bound to produce proof that he has obtained such consent.

If the application is complied with, there shall be granted to the applicant letters-patent in such form as the King may prescribe.

The grant of such letters-patent shall not take effect until he to whom they have been granted has sworn the oath prescribed in section 51‡ of the law of the constitution. The judge before whom the oath is sworn shall indorse upon the letters-patent that such oath has been sworn before him.

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* Law of the constitution of 4th November, 1814, section 92 (*a*). ——— is, either born within the realm, of parents who at the time of the birth were Norwegian subjects; or (*b*); is born abroad of Norwegian subjects who at the time of the birth were not the subjects of a foreign state.

† Law of the constitution of 4th November, 1814. Section 52. The right of exercising the franchise is suspended: (*a*) Upon indictment before the sessions for such a crime or crimes as carries such a punishment or punishments in its train as is stated in section 53 (*a*) of the same law. Section 53. The right of exercising the franchise is suspended: (*a*) On condemnation to a term of penal servitude, on dismissal from a public office, or on imprisonment on account of a crime committed, such as is enumerated in any chapter of the criminal law concerning perjury, theft, robbery, or false pretenses.

‡ Law of the constitution of 4th November. Section 51. * * * Every one must, before his name be entered in the public register (of citizens and voters), appear at the local sessions and swear the oath of fidelity to the constitution.

Widows or spinsters may acquire the rights of citizenship in the manner before described, but shall not be required to take the oath.

SEC. 4. The rights of citizenship acquired in terms of section 2 and section 3 of this present law descend also upon the wife of such person as has acquired them; also, upon his or her children who have not attained majority, and who reside with the parents or are reared under their authority.

SEC. 5. Every immigrant foreigner who, without being registered in the census appointed by section 51 of the law of the constitution,* yet assumes to have possessed the rights of citizenship at the time when this present law takes effect must, in order to establish such assumed rights, apply within one year from such time to the supreme authority for letters of citizenship.

For persons who at the time when this law first takes effect have not then attained majority, the period of grace allowed for the making of such application shall be reckoned from the attainment of majority.

If the supreme authority shall find the application well-founded, and the applicant satisfies the conditions stated in section 3 *a* and *b* of the present law, letters of citizenship shall be issued to him, and serve as complete warrant for his rights of citizenship. If the application is refused, such refusal shall not deprive the applicant of any rights that under the pre-existing laws pertain to him.

SEC. 6. The rights of Norwegian citizenship shall be forfeited, on

(*a*) becoming the subject of a foreign state.

(*b*) on permanently leaving the country. But the Norwegian subject who by section 92 *a*, *b*, or *d*, of the law of the constitution† possesses the rights pertaining to native birth may maintain his subject-relation, if he, within a year of his removal or from the day that the present law takes effect, emits a declaration before the Norwegian consul of the place that he desires to remain a Norwegian subject.

The declaration shall be effective for a period of 10 years, and may, before expiry of the period, be renewed with the same effect for a similar term of years.

Whosoever removes to a foreign country on account of an appointment in the public service of Norway, or in the joint public service of Norway and Sweden, retains his Norwegian subject-relation.

In every case where the emigrant retains the rights of a Norwegian subject they also descend upon his wife, and upon his or her children who have not yet attained majority, and who reside with the parents or are reared under their authority.

SEC. 7. Whosoever in terms of 92 *a*, *b*, or *d*‡ of the law of the constitution possesses the rights pertaining to native birth, remains, always, entitled to take up a permanent residence within the realm. Such persons retain the legal domicile determined by section 16, for the towns, and section 17, for the country, of the poor law of 6th June, 1863.§

Norwegian subjects are entitled to remain within the realm except in the case of being delivered up to Sweden in terms of the law of 11th September, 1818.‖ Section 1 of the law of 17th June, 1886,¶ containing changes and additions to the poor laws, is

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* Law of the constitution of 4th November, 1814. Section 51. A register of all inhabitants entitled to exercise the franchise shall be prepared in every town by the magistrate and in every parish by the sheriff-substitute (fogden) and the vicar.

† *Vide* reference No. 1, page 4, (*a*), (*b*), or (*d*) ——— who has been naturalized by the Storthing.

‡ *Vide* reference No. 1, and reference No. 3, page 1491.

§ Poor law of 6th June, 1863.—*For towns*, section 16: Native-born Norwegian subjects have their natural domicile in the district in which the mother at the time of the birth had her domicile, and naturalized subjects have their domicile in the district in which they had their permanent residence at the time of the grant of their letters of naturalization. *For the country*, section 17: Foreigners, as well as native-born subjects, acquire domicile in a district upon having maintained a continuous residence in such district for two years after the attainment of 15 years of age. A subsequently acquired domicile cancels and annuls a previous domicile, whether natural or acquired. The domicile which any one possesses at the time of attaining 62 years of age, he retains for the rest of his life.

‖ Law of extradition of criminals of 11th September, 1818. (This law is a mutual law of extradition between Norway and Sweden, providing for any one accused of crime committed in the one Kingdom being extradited on the demand of the authorities of such Kingdom, subject to the observance of the usual procedure.)—It is unnecessary to cite any of its paragraphs here *in extenso* in connection with the law of Norwegian citizenship.

¶ Law to amend the poor laws of 17th June, 1886, section 1.—The laws concerning the relief of poor in the towns (section 16) and in the country (section 17) of 6th June, 1863, shall be amended in such manner that foreigners, in order to acquire domicile in a district within the realm, must, after having attained 15 years of age, have had a continuous residence within such district for 5 years. On continued residence within the realm a new domicile may be obtained within the same period as is provided for native-born subjects.

hereby annulled in the case of Norwegian subjects, whilst section 2 of the same law * shall continue in effect in respect of emigrant Norwegian subjects who have not the rights pertaining to Norwegian native-birth.

Norwegian citizenship involves also the relation of subject. The freedom from military service, conditionally granted to immigrant foreigners by section 12 of the law of conscription of 11th May, 1866,† remains unaffected in their case, notwithstanding that they may have become Norwegian citizens.

SEC. 8. The inhabitants of the realm who have not acquired Norwegian citizenship are not, either, Norwegian subjects. Their legal position remains, as before, regulated, as provided in all laws other than the law of the constitution and this present law, and appointed for Norwegian subjects, native-born inhabitants of the realm, Norwegians, the inhabitants of the Kingdom, or Norwegian citizens; except that immigrant foreigners remain subject to be expelled the realm in the same cases as formerly. The law of 4th August, 1846,‡ having reference to eligibility for certain communal offices, also the law of 17th June, 1886,§ referred to in the preceding paragraph, shall continue to remain applicable to them.

SEC. 9. Without a license, to be granted by the King or such authority as he may empower, heritable property within the realm can, in future, not be acquired with legal title by others than Norwegian or Swedish subjects, or corporations, institutions, or limited liability companies, whose management is domiciled in Norway or Sweden, and consists exclusively of Norwegian or Swedish subjects. The same provision shall hold good in respect of estate acquired on lease.

Exceptions from the provisions of this paragraph may be granted by the King in the case of leases and other rights of user entered into for a term not exceeding ten years.

The right to acquire a mining license, parcel of mining land, and respite in the working of mines, in terms of the law of mines of 14th July, 1842,‖ shall remain open to all as hitherto; as also the mining licensee's rights in terms of § 18 ¶ of the same law, and the law of 17th February, 1866.** Likewise shall the non-conformist bodies acknowledged in terms of the law of 16th July, 1845,†† also, in future, be permitted

* Law to amend to poor laws of 17th June, 1886, section 2.—The domicile acquired by a foreigner within the realm becomes lost when he removes from it and takes up his residence abroad.

† Law of conscription of 12th May, 1866.—Foreigners who have acquired a permanent home within the realm are liable to military service equally with native-born subjects, except in the case of a treaty with a foreign power or any peculiar relation of subject relieving such foreigner from military duty. But every foreigner shall be relieved of the duty of military service, to which he is liable by the law of conscription, for such time as the Kingdom may be at war with his native land.

‡ Law concerning election to certain local offices, of 4th August, 1846, section 1.—To such local offices as shall, according to law, be filled by election from among the inhabitants duly entered in the register, who are in possession of the franchise in terms of the law of the constitution, the area of election shall in future be extended to all citizens who possess the qualifications required in terms of section 50 of the law of the constitution, and who are not excluded from such election from being in any of the situations referred to in section 52 and section 53 of the law of the constitution, even although they may not have sworn the oath of fidelity to the constitution or been entered in the register of qualified voters, as provided in the law of the constitution.

§ *Vide* references No. 5, page 1492 and No. 1, page 1493.

‖ The mining law of 14th July, 1842. This law provides, "any one whatsoever may, etc.," and foreigners are, in all the provisions of the law, placed upon exactly the same footing as the native-born Norwegian inhabitants.

(The complete mining law of 14th July, 1842, with all subsequent acts of amendment, may be obtained in an English translation on application to F. Beyer, 2 Strandgaden, Bergen.)

¶ Sec. 18 of the mining law of 14th July, 1842; — provides for the compulsory sale of ground, water, etc., necessary to a mine, for certain working purposes, but no distinction is drawn in it between a native-born inhabitant and an immigrant foreigner.

** The law here referred to is intituled law amending section 18 of the mining law of 14th July, 1842. It provides for an extension of the rights granted to a mine-owner by section 18 of the mining law of 14th July, 1842, but in the act of amendment of 17th July, 1866, there is still no distinction made between native-born inhabitants and immigrant foreigners.

†† Law concerning Christian non-conformists, of 16th July, 1845. In this law the relations of non-conformists to the established church of the realm are regulated, and freedom of religious exercise, which did not exist before, is granted. Among other things, the right to acquire ground for erecting churches, schools, clergyman's residence, providing church-yards, etc., is granted. No distinction is drawn between the native-born non-conformist and the immigrant foreign non-conformist.

to acquire sites for churches, schools, clergyman's residence, and burying ground, anything in this paragraph of the present law to the contrary notwithstanding.

SEC. 10. A Swedish subject who, in future, acquires heritable property in Norway, or such a right of user as according to section 9 is dealt with on the same footing, shall, in the event of his not being resident in Norway, be bound to appoint a mandatory at the place where the property is situated, who shall be empowered in the owner's or lessee's absence, to appear on his behalf before the courts of justice and other official authorities in matters that concern the property or right of user.

The same regulation shall apply to corporations, institutions, or limited liability companies, whose management is resident in Sweden and which acquires such a property or right of user as is named above.

The name and residence of the mandatory shall be filed in the court of registration.

Should the before-named provisions not be observed, the sheriff of the district in which the property is situated may, upon the demand of any one interested therein, appoint a mandatory on behalf of the owner or lessee concerned, and such appointment shall be binding upon the owner or lessee.

The provisions appointed in this paragraph shall also be applicable in the case of a foreigner who under a license, obtained in conformity with section 9, has acquired heritable property, or right of user over heritable property, within this realm.

SEC. 11. Should any contract or arrangement have been entered into, in conflict with the provisions of section 9, it can not be enforced unless such a license as is spoken of in the paragraph named be subsequently obtained.

SEC. 12. Should any document in respect of an acquisition of property, for which a foreigner in terms of section 9 requires a license, be required registered in the court of registration, and such license not be produced, the clerk of court shall, in the event of his having any doubt whether the acquisition is in conflict with the said paragraph, make such an endorsement. The endorsement shall be remitted by the clerk of court to the supreme authority.

SEC. 13. Should any legal act that is in conflict with the provisions of section 9 have been completed by registration of the deeds of conveyance, or should the purchaser or lessee have been placed in possession of the property or the right of user over same, the supreme authority shall appoint a term, within which the relations shall be brought into legal order, by the obtaining of a license such as is spoken of in the paragraph named, or by the voluntary annullment of the transaction, or by the sale of the property to some one who possesses the legal right to acquire heritable property. The term of grace must not be fixed at less than 6 months, nor longer than 3 years. The determination of such term by the supreme authority shall be registered in the court of registration.

SEC. 14. Should this term of grace be exceeded, the property or right of user shall, by order of the supreme authority and without reference to the court of conciliation or any notice being necessary, be sold by compulsory auction. Such sale shall be absolutely binding on the owner or possessor, his predecessor in the property concerned, their creditors and sequestrated estates, also on all who hold mortgages over the property. The sale shall be effected for the account of the owner or possessor, and in such a manner that no part of the purchase money realized by the sale at auction shall be paid out to him, until his predecessor shall have obtained the value that had been stipulated for the property or for the right of user. If such value is not fully realized at the sale by auction, he shall still retain his right of regress upon the debtor for any balance.

SEC. 15. The provisions named in section 13 and section 14 shall also be applied, if a limited liability company which has its management in Norway or Sweden, and owns heritable property in Norway, or possesses a right of user, to the acquisition of which a foreigner requires a license in terms of section 9, removes its management to the realm of any foreign power, or if it admits into its direction any one who does not possess Norwegian or Swedish rights of citizenship.

SEC. 16. Should heritable property or rights of user descend by inheritance upon any one who is not entitled by this present law to acquire it, and a license in terms of section 9 by reason of any special circumstances can not be obtained, the provisions of section 13 and section 14 shall remain in force notwithstanding, in so far as they, in their nature, are applicable to the case.

If the property or right of user belongs to a woman who possesses the rights of Norwegian or Swedish citizenship, or who has in terms of section 9 obtained a license to acquire the subject, it shall remain her separate property, even though she should marry any one who has not the right of citizenship or who has not obtained a license.

SEC. 17. By the expression fixed residence within this realm there is meant, in this present law, such a sojourn as testifies to a purpose of remaining permanently in the realm.

SEC. 18. The present law shall immediately come into force, but shall not be applicable in such cases in which its provisions may conflict with existing treaties.

Therefore, we have sanctioned and confirmed, as we do hereby sanction and confirm, this resolution as law under the seal of the Kingdom.

Given at the Palace of Stockholm the 21st April, 1888.

During His Majesty's, my gracious King and Lord's, absence.

[L. S.] GUSTAF.

Countersigned:

O. RICHTER.
LEHMANN.

# SWITZERLAND.

## No. 1019.

*Mr. Winchester to Mr. Bayard.*

No. 159.] LEGATION OF THE UNITED STATES,
*Berne, October* 4, 1887. (Received October 15.)

SIR: On the 26th ultimo, in my dispatch No. 154, the case of Mr. Nathan Seligman, involving his right to a passport, was referred to the Department. Therein it was explained that, feeling constrained to issue Mr. Seligman a passport, from the "unequivocal declaration of positive intent to return to the United States" made in his application, the reference was made more for the purpose of guidance in future cases of the same general character, many of which were known to exist in Switzerland, and presenting the identical question of continuous residence abroad as partners or agents of American business houses. The legation is to-day in receipt of an application, through the St. Galle consulate, from Mr. Solomon M. Pollock, for a passport, which is without the saving clause of Mr. Seligman's, and presents the question squarely and fully. Mr. Pollock does not make any "unequivocal declaration of positive intent to return." His application contains this declaration as to return, "Perhaps shortly, and perhaps not for a few years." This is supplemented by a written statement from Mr. Pollock, explaining why he was unable to make a more definite declaration as to his return to the United States. Mr. Pollock states that he has been sent out here by the firm of Leon, Levy & Bros., of New York and San Francisco, as their agent, to attend to the purchase and *manufacture* (the emphasis of manufacture is mine, as having an important bearing) of embroideries. He adds:

> I have been here over four years to do their business. I am at their disposal; do not know when they will call me back. This may occur the next six months and may not happen for years to come; but I do hereby declare, that whenever I am called back I shall be a loyal citizen and assume the duties as such.

As this case presents the question upon which instruction was desired in the best possible form, it has been deemed best to decline granting Mr. Pollock a passport until the opinion of the Department can be obtained.

The legation is not unmindful of the instruction of the Department to Mr. Roberts, the American minister to Chili, published in the "International Law Digest," volume ii, section 176, pages 369, 370, apparently covering the principle involved, but has not felt satisfied that the cases in Switzerland, fully stated in my dispatch No. 154 and illustrated by those of Messrs. Seligman and Pollock, possessed the same features either of "public policy" or of "international law."

Mr. Pollock's case presents the same damaging characteristics mentioned in that of Mr. Seligman, and largely prevailing in the same class of cases. He emigrated to the United States in February, 1875; was naturalized November 13, 1882; and left the United States November 15, 1882, since which date he has resided in Switzerland for the purpose stated by him, and is unable to make any positive declaration of intention to return.

Hoping the Department may find it possible to give this legation such instructions as will dispose of the class of cases herein indicated,

I am, etc.,

BOYD WINCHESTER.

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No. 1020.

*Mr. Winchester to Mr. Bayard.*

No. 162.] LEGATION OF THE UNITED STATES,
*Berne, October* 10, 1887. (Received October 22.)

SIR: The Swiss Federal Council and the diplomatic corps attended a banquet given by the directors of the Swiss national agricultural exposition, in progress at Neuchatel. The remarks of the President of the Confederation attracted much attention, being devoted to a question at the time receiving anxious consideration in Switzerland. The delusion of protective ideas, as furnishing any remedy for the depressed condition of agricultural interests, formed the text of his speech. He said:

The political existence of Switzerland is at present not threatened or endangered from any quarter, but it is different with her economical existence, which makes us more solicitous from day to day through the increase of unjust burdens imposed at all our neighboring frontiers. The first to feel this condition were our manufacturers, who demanded a tariff of retaliation, and now the farmers complain that they are suffering from a denial of the same protection. Indeed, we are to-day the witnesses of an eager race in the parliaments of many countries to raise the duty on importations from their neighboring states until the wall is so high that nothing can pass. Is this to be the grand coronation of the labor and civilization of the nineteenth century—the century of steam, electricity, the piercing of the St. Gothard, the Suez and Panama Canals? No; such a condition can not endure. The commerce of the world is under a tension which the tariff system can not forever subject it to, and protection must become hateful as it tends to make dearer the necessities of the people. Let me express the hope that the time will come, if soon I do not venture to say, when from the excess of the evil good will result; that the people and government will recognize that the fictitious advance created by protective duties leads to general poverty, whilst the liberty of exchange is the surest foundation of general prosperity.

The sentiments of the President, the above brief extract being given to show their tone, seem to meet with a very general and hearty appreciation. There were several other speeches made in the same line, and no one uttered a word, as far as I heard, except in perfect harmony with it. Some of the speakers with great force pointed to France, where, in deference to the demands of the agricultural party, the duty upon cereals, meats, and cattle was largely advanced in 1884–'85, and that these duties, from which the agricultural interest expected so much, had failed to produce the anticipated effect, resulting in no good to producers or consumers, and that the farms are going from bad to worse; that the experience of France in its protection to farmers shows that—

First. The increase of protective duties on agricultural produce causes not only a decrease in the import but a decrease in the export as well.

Second. The increase is not of the smallest benefit to the farmer or to the consumer, but on the contrary the price of agricultural produce of all sorts is as low if not lower than before the duty was imposed.

Third. That those engaged in industries which are affected, and workmen, the price of whose bread and meat is increased, are uniting to resist the demands of the peasant electorate.

Fourth. That protection is an agricultural remedy is out of the question.

The report of the Stuttgart chamber of commerce, recently made, was quoted *in extenso*, and special emphasis given to that portion where it says:

> The result of the extensive development of the protective system has been to doubly increase the international uncertainty which now burdens trade and commerce. Every movement in favor of protective duties results in efforts on the part of other countries interested in the matter to outbid their neighbors, and that the very duty which is by way of protecting a nation, produces a reaction on home prices, and causes them to become assimilated to those of international commerce.

The entire unanimity that prevailed in all the remarks touching this question was very surprising, for it has been understood there was a considerable party in Switzerland clamoring for a trial of the experiment of protection as a relief to the agricultural depression and continued complaint from the peasants. Swiss exports have for several years been constantly decreasing on account of the cordon of high customs duties surrounding them on all sides. Being an inland country, without ships or sea ports, she has no advantages for direct exportation or importation, and sells and buys most naturally of her immediate neighbors. So her commerce in and out is largely affected through the four conterminous countries, viz, France, Italy, Germany, and Austria. Her exports outside of these, being silk goods, embroideries, and watches, which constitute four-fifths of it, may be classed in a general sense as luxuries, and, in seeking a foreign market, encounter the highest duty, whilst her importations are cotton, machinery, cereals, food-supply, and raw materials for her manufacturers that will not admit of a heavy duty on her part. Yet her revenue is mainly derived from customs, and posts and telegraphs, the receipts from the former being 21,220,000 francs, and the latter 23,215,200 francs for 1887 (estimated), making 44,435,200 out of an aggregate revenue of 52,527,000 francs estimated for the fiscal year.

The cereal crop of last year was much above the ordinary yield, but it left a deficiency for home consumption, requiring an importation of an amount more than double in value to the amount produced.

The tariff received a general revision in 1884, and was made slightly more protective, the advance in duty being chiefly in the interest of the manufacturers of silk and other articles by a reduction of the duty on raw material required by them, and by a small increase of those affecting manufactured goods, as was fully set forth by a report of Consul Gifford at Basle, transmitting a translation of the new tariff, with schedule of the changes made. Last winter a bill passed the National Council (the lower house of the Federal Assembly) making a still further increase very much in the line of the tariff of 1884, and it awaits the action of the State Council at the coming session in December. But a very serious difficulty stands in the way of any practical results from tariff legislation in Switzerland at this time, from special commercial treaties in existence with her neighbors and the ones with France and Italy extending to 1892. The treaty with Germany expired in the summer of 1886, and as yet has not been renewed from the unwillingness of the

German Government to concede the more favorable terms for the entry of her products demanded by Switzerland, and the opposition is very great to the renewal in its present form. Some are urging a tariff war with Germany in event of a failure to secure a conventional tariff on a fair basis, but the more intelligent opinion regards any such threat as foolish and suicidal. There appears to be gradually dawning on the masses of the people in the high-tariff countries of Europe, who are the main sufferers from this economic condition, the fact that the stubborn and mysterious depression of industries and the constant uncertainty of prices are in a great measure due to the insatiable disposition of those who have tasted of the fascinating drug of protective tariff, if they can, to take a stronger one of the same opiate, like the daughters of the horse-leech ever crying, "Give, give." The rapid blocking of the provisions of the most-favored-nation clauses will some day imperatively require a mutual *rapprochement* on the questions of customs policy. These clauses are daily losing their meaning and importance, because every country denounces the conventional tariff system and enlarges and accentuates the provisions of its own national tariff.

I am, etc.,

BOYD WINCHESTER.

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No. 1021.

*Mr. Winchester to Mr. Bayard.*

No. 165.] LEGATION ON THE UNITED STATES,
*Berne, October* 17, 1887. (Received October 29.)

SIR: The blank forms for passport application recently furnished by the Department require in the case of "naturalized" citizens a declaration of intention "to return to the United States with a purpose of residing and performing the duties of citizenship there." This declaration is not required from "native" citizens. The legation desires to be advised if the above declaration can be exacted from persons claiming citizenship through the naturalization of their parents and residing indefinitely abroad, when applying for passports.

The legation has no doubt of the equity of such exaction in many cases, for the proper protection of the dignity and character of American citizenship, but has not been entirely sure of its right to do so, there being no instructions from the Department on the question, intimating any purpose of extending the exceptional clause of the blank forms provided, beyond "naturalized" citizens. The class of persons alluded to of course take care to use the forms for "natives," whether born in or out of the United States; and in two cases recently submitted to the legation (one where the party was born abroad of naturalized parents and had reached the age of twenty-four without ever being in the United States, and the other born in the United States but brought abroad when two years old and now twenty-one, without ever having returned, and neither declaring any intention to return to the United States to reside), passports were refused.

I am, etc.,

BOYD WINCHESTER.

No. 1022.

*Mr. Bayard to Mr. Winchester.*

No. 104.] DEPARTMENT OF STATE,
*Washington, October* 24, 1887.

SIR: Your dispatch No. 159, of the 4th instant, relative to the application of Mr. Solomon M. Pollock for a passport, has been received.

It appears from your dispatch that Mr. Pollock emigrated to the United States in February, 1875, was naturalized November 13, 1882, and left this country two days afterwards for Switzerland, where he has ever since resided as agent for the firm of Leon, Levy & Brothers, of New York and San Francisco.

It appears furthermore from your dispatch that Mr. Pollock states that he is unable to say when he will return to the United States; that he has been in Switzerland four years as the agent of the above-named firm and does not know when they will recall him; that they may do so within the next six months, or they may not do so for years.

If you are fully satisfied that Mr. Pollock is actually detained abroad by his employment as the agent of an American firm transacting business in the United States, and if he declares it to be his intention upon the termination of such employment and agency to return to the United States there to reside and take upon himself the duties of such citizenship, then you can issue to him a passport in accordance with the principles laid down in this Department's instructions to you, No. 102,* of the 13th instant.

I am, etc.,

T. F. BAYARD.

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No. 1023.

*Mr. Winchester to Mr. Bayard.*

No. 168.] LEGATION OF THE UNITED STATES,
*Berne, October* 24, 1887. (Received November 7.)

SIR: Last May a very strong and exhaustive memorial was addressed by the *direction* of the police of Berne to the executive council of the canton concerning the organization and operation of Mormon agents in the canton, and suggesting the measures necessary to be taken for their effective suppression. The memorial has been referred to the federal council, and, although not yet published, a copy has been obtained and the translation herewith transmitted. It has been well known for years that the canton of Berne was the seat of Mormon propagandism in Switzerland, and the memorial based on official police investigation and sustained by the depositions of numerous witnesses shows the open public manner in which it is carried on, and discloses the disgraceful fact that its victims are largely children of very tender years and persons of feeble minds. The memorial further clearly proves that these Mormon emissaries are in every sense emigration agents, and the emigrants obtained by them are all destined for the United States. In all probability the appeal made by the memorial for "protection to their own people against the evil influences of the Mormon

* See For. Rels., 1887, p. 1073.

propagandists" will cause the federal council to propose some additional legislation for its more effective prohibition. The federal council has denied the appeal of the Mormon Loosti, referred to in the memorial, condemned by the tribunal of Zofingen, and who invoked the guaranty of the liberty of conscience contained in the constitution.

I am, etc.,

BOYD WINCHESTER.

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[Inclosure in No. 168.—Translation.]

*Memorial from the direction of police of Berne to the executive council of the canton concerning the measures to be taken against the sect of Mormons.*

The existence and the action of the sect of Mormons in the canton of Berne has many times been brought to the attention of the Government, and has formed the subject of several inquiries hitherto remaining without any conclusion. The last of them dated from last year. It had been provoked by a piece of advice from the parochial council of Nydeck, dated 7th of December, 1885, calling the attention of the prefect of Berne and of the town council to the dangers of the Mormon propaganda in the canton of Berne. The town council on its part had transmitted the same advice to the direction of the police the 13th of January, 1886, begging it to take measures for stopping the propaganda, and putting an end to the scandal of the enrolling for Utah that is openly practiced.

The town council, with the parochial council of Nydeck, ascertained that the Mormons did not conceal their action any more, and announced openly their assemblies to which "all friends of the truth were invited." It is true that the complaint acknowledged that the conduct of the members of the sect did not give place to any complaint, and that taken individually they generally enjoyed an excellent reputation.

The inquiry brought forward the following facts: The Mormon mission at Berne has existed since 1849, but for a long time previous to that date the sect strove to recruit itself in Switzerland. In 1885 there were 610 Mormons, divided in four conferences and twenty-one communities. The canton of Berne is their principal place of recruitment. They have founded there seven communities, which counted three hundred and thirty-six members last year. It seems that this number has increased since then, in consequence of the endeavors of the agents of the mission, which is directed by a bishop named Schönfeld, established at Berne since February 8, and who shall be soon replaced, the duration of the functions of a president being generally triennial. The expenses of the mission and its agents are covered by more or less voluntary contributions of the adherents, comprising the collections made at their assemblies and principally the tithe.

The latter is commanded by the Bible, but actually it is also a voluntary tax (deposition of Bishop Schönfeld). The members of the community pay into the hands of the "apostles" about 10 per cent. of their income. A special account is opened to them in the large book (ledger), and every three months an extract of it is delivered to them. (Deposition of Meier, carpenter.) A part of this money is employed to cover the expenses of their voyage when they are decided to set out for "the new Zion." Every year there is at Berne an assembly-general, which lasts several days, and in the course of which the new converts are baptized. It seems that the mission of Berne is the directorial committee of the propaganda in Europe, or at least on the continent. It publishes a monthly journal, The Star, the subscription to which is obligatory for all members of the sect.

At the end of 1885 the committee of Berne had the following effective force:

| Community. | Ancients. | Priests. | Preachers. | Learned men. | Members. | Total. |
|---|---|---|---|---|---|---|
| Berne | 5 | 5 | 10 | 5 | 97 | 120 |
| Scherli | 1 | 1 | 2 | 1 | 29 | 34 |
| Langnau | 2 | 1 | 2 | 1 | 52 | 58 |
| Simmenthal | 2 | ..... | 1 | 1 | 57 | 61 |
| Cerlier | 2 | ..... | 2 | ..... | 18 | 22 |
| Bienne | 1 | 1 | 2 | ..... | 28 | 32 |
| Délémont | 1 | ..... | 1 | 1 | 6 | 9 |
| Total | 14 | 8 | 20 | 9 | 287 | 336 |

The mission has occupied since 1870 a particular locality at Berne, Post street, 36.

A search took place in this locality the 21st of May, 1886. Three members of the community were present. They made no resistance whatever, and delivered all documents that were in their possession and the list of the members. Likewise they furnished every information they were asked for in the course of the inquiry by the prefect of Berne and the direction of the police.

The information was especially bearing on the character of the emigration which is evidently the scope of the Mormon propaganda. Certain facts pointed to show that the emigration was organized in the locality of the Post street, and that the emigrants were assembled in convoys, in order to start for Utah, accompanied by special agents. So a man named Jacob Diehr, shoemaker, living in the next house, gave evidence that in spring the Mormons were sending children from five to fourteen years to America. He declared that he had seen them dispatch children to the number of twenty at once, and he indicated witnesses who could confirm his deposition. It is shown by the inquiry that these expeditions of children are really made at more or less regular intervals, although Diehr may have a little exaggerated their proportions. So M. Hauer, of Durrenroth, clerk of the mission, avowed that he had already sent to the Salt Lake three of his children seven, nine, and sixteen years old, and that he was decided to join them with his wife and his two other children. One of them, five and one-half years old, was to depart within a few days with the woman Friedli, of the Matte, who was about to emigrate with her son. He had sent the first children to Utah on the advice of the preachers Gass and Cannon. He acknowledged that every year the mission was dispatching children from Berne, with or without their parents. Besides he declared that he had good news from his children, that they were well placed, and that he re-imbursed by degrees the money that had been advanced to him for their voyage (deposition of the 14th of May, 1886). The woman Friedli confirmed the declaration of Hauer. She was ready to join her husband, already established in Utah, who had sent her the money for the voyage. According to her deposition, children are never dispatched without being accompanied by their parents or by agents relieved from their station and going back to their country. The members who are willing to emigrate pay the tithe until they have succeeded to gather the necessary sum, or they repay later the sums advanced to them for their emigration. Another witness stated that the Mormons prefer to dispatch children because their transport is cheaper than that of adult persons. Mr. Meier, carpenter, baptized in the Aar in 1879, acknowledges to have sent since then his four children to Utah. He had paid a part of the traveling expenses; the rest had been advanced by the chest of tithes.

A woman, Knörri, living in the same house with Diehr, declared also that one named Zahler, wood-cutter, had some years ago sent his three children to Utah, the youngest of them eleven years old, then his wife with two children, and at last he had rejoined them with his last child. The expedition of the children Hauer was also known to her.

The same witness states that the neighbors have not to complain of the assemblies of the Mormons which take place every evening at the Post street. These assemblies are frequented by people of both sexes; the boys seem particularly to be country people. The congregation prays and sings, but without molesting anybody. This is also confirmed by Mrs. Hofstetter, landlady of the house occupied by the Mormons. She declares herself satisfied with her lodgers. She herself shuts the door at 10 o'clock, and has never to complain of the Mormons, neither of their assemblies.

Bishop Schönfeld, president of the mission, endeavors in his deposition to present these expeditions of children in a favorable light. According to him the children are only sent to Utah when they have relations there to receive them. The mission does not occupy itself with the emigrations, but now and then missionaries sent for a certain time to Europe come back with the emigrants.

But several facts contradict this testimony. It is, namely, proved by a communication of the commission of police of Basle, dated 17th of June, 1886, that the Mormon emigrants are dispatched by the agencies Schneebeli & Co., of Basle, and Guyon & Co. of Antwerp, and that the missionaries are employed as intermediate agents, the emigrants' agency never treating directly with the emigrants. As for the question of polygamy, the Mormons show themselves, of course, very much reserved. Of the American agents sojourning in Berne several acknowledge to have practiced it themselves. So Mr. Kung originally of Simmenthal declares that he is a bigamist since 1874, and that he feels well being so. Bishop Schönfield is polygamist since 1878; his families, as well as those of Kung, have remained at Salt Lake. But all are eager to sustain that polygamy is interdicted to the Mormons everywhere but in the promised land, where besides it is subordinated to the authorization of the first wife, and that it is forbidden to the missionaries to preach it. They are only authorized to speak of it to those who ask for explanation on this matter, and although justifying it by biblical citations, they teach the neophytes that their first duty is to obey in this matter the laws of the country they live in. The fervor of this sect is sustained by fre-

quent appeals of their apostles and priests and by the perusal of the journal of the mission, which every month publishes enthusiastic correspondences from Utah, calculated for inflaming the zeal of the believers who are not yet freed from the captivity of Babylon and for inspiring them with the wish to set off as soon as possible for the promised land. The propaganda of the journal is, besides, sustained by a special literature, which exclusively shall be the only reading of the Mormons. It contains first the Book Mormon, the fundamental book of the sect; then the book of doctrine and confederation, comprising the innumerable revelations of the prophet Joseph Smith; the Voice of Warning by Daniel Carn; the catechism for children; the book of songs, the Precious Pearl; the restitution of the original Gospel, the only true Gospel, a Word of Defense, etc. All these tracts are furnished by the house of the Post street, and the fact that all these books have already had numerous editions prove that they are a mighty auxiliary agent to the activity of the Mormon agents. Of all the communities spread over the canton of Berne one of the most curious is that of Gündlischwand, in the Oberland. A report of the prefect of Interlaken, dated 8th of June, 1886, states this community then counted ten members. The sect had already been established about twenty-five years. Two brothers, Abegglen, were then converted and had set out for the "New Jerusalem." They seem to have prospered, for one of them, Conrad Abegglen, on the 6th of March, 1884, wrote a letter to his relation, John Boss, carpenter and mayor of Gündlischwand, in which letter he praised the fertility and the institutions of the country of Sion. Boss, who is, besides, a very respectable man, was convinced, and established a new community. This does not extend further than ten members, who compose it. As soon as they shall have departed for Utah, the district of Interlaken will have no more Mormons. The baptisms take place in the Black Lütschinen and cause no scandal of any kind.

The Mormons of Gündli schwand frequent assiduously assemblies which take place at Allmendingen and at Beschten, in the district of Thoune, where the sect seems to find a favorable soil. The population is hostile to them and insults them in the streets and troubles their assemblies. They are of an exalted fanaticism, as one may judge from their answers to the interrogatories of the prefect. So the son of John Boss, eighteen years old, declares that he receives books and tracts from Berne but that he would not need them, for the whole Mormon doctrine is to be found in the Bible. His sister Elizabeth, forty-one years old, waits impatiently for the moment of departing for Utah. She has already realized all her property for this purpose. She has the intention to take with her to Sion her sister, who is dumb and deaf, having the conviction that the prophet will cure her by only imposing his hands on her. She believes that polygamy is conformable to biblical teaching. This is also the opinion of Margarita Lauener, twenty years old, who assists on the first and third Sunday of every month the assemblies of Allmendingen. She assures that polygamy does not frighten her because every one is master of his person. The community of Gündlischwand contains also a family Wyss, whose husband has been expelled the first time for not having the necessary qualities, his profession as cook obliging him to ramble about the world, but he will re-enter the church because it is a good cause. His wife entered the sect in 1885. She was baptized in September, 1885, at 8 o'clock in the evening, in the Lütschinen by the missionary John Kung, together with her daughter Anna, fifteen years old, and Margarita Lauener. The baptism is performed by immersion in presence of the witnesses. After that the neophyte goes home for changing his dress, and then to the assembly of edification where the elders impose hands on him. All members pay 10 per cent. of their income into the treasury of the community.

The Mormons of the environs of Langnau have their meetings every Sunday at Eyschachen in the house of a certain Nicolas Egli, farmer, who presides in the absence of the preacher, John Stucki, recently come back from Utah to make new recruits. According to the report of the policeman Spring, who assisted at the meeting of the 26th of September by the order of the direction of police, these meetings are frequented by thirteen persons of the environs, two farmers with their wives and children, a shoemaker, a laborer, a man servant and three female servants.

There is also a certain number of Mormon families at Scherli. The mayor, Kohler, is the chief of the community. He has accompanied a convoy of emigrants who left for Utah the 17th of May, 1886. The communal council of Köintz ascertains that there was never any complaint against them.

In the Simmenthal their number has considerably diminished according to a report of the prefect of the 10th of November, 1886. There are no more Mormons at Därstetten, neither at Oberwyl, which has furnished an apostle to the sect in the person of the teacher Spori, now at Constantinople. Some Mormon families established at Stocken emigrated in May, 1886, with those of Gündlischwand, to the great satisfaction of the whole country. Meetings organized at Diemtigen were not followed by any success, which is to be attributed especially to the unfavorable news received from a tailor named Hinnen, who a short time before had departed for Utah. There are still two families of Mormons at Erlenbach; they are composed of twelve persons in the whole. The meetings take place at Ringoldingen; they are commonly fre-

quented by about ten persons and presided over by Stucki, Schönfeld, or one of the brothers Kung, of Diemtigen. All these people are ready for emigration to Salt Lake.

The meetings of Aeschlen and Allmendingen, in the district of Thoune, seem to be little frequented. At Aeschlen there is but one Mormon family waiting for a favorable occasion for emigrating. At Allmendingen the meetings have taken place since 1883 at the house of an individual of bad repute named Beutler, but excepting the persons of his family they are only composed of persons not belonging to the place. The direction of the police has received no information concerning the other communities of the canton of Berne. In November, 1886, the public press called attention to meetings of Mormons at Wangen, but in reality they were religious meetings directed by a Baptist preacher named Gottleib Körber, who came back from America, whither he had gone in 1846. This sect has nothing in common with the Mormons but the baptism of adult persons by immersion. It does not seem that Mormonism has other adherents in the canton of Berne but the members of the communities whose enumeration we have drawn from the official organ of the sect.

At the same time the Government was informed of the revival of the Mormon agitation and the enrollments for Utah, it received through the federal department of commerce a document that threw a sad light on the situation of the Swiss people established in the Mormon country. The representative of a foreign state at Salt Lake wrote the following to the Swiss consul at San Francisco:

"The Mormon missionaries take yearly to this place about one hundred persons who, enjoying an honorable and honest ease in Switzerland, are obliged to undergo here all the torture of poverty, after the Mormons have shorn them to the hide, leaving them nothing but their eyes to weep. I had to occupy myself with several cases, the recital of which would split the heart of a tiger, but was not able to move the stone which the Mormons carry in the place of their heart."

This communication, which was published and commented on by the whole Swiss press, was answered by the Mormon agents. They transmitted to the Federal Council three protestations covered with about two hundred and fifty signatures of Swiss emigrants of both sexes, established at Utah (Salt Lake City, Payson City, and Logan). The subscribers of these addresses declared that the facts denounced to the Swiss consul at San Francisco were imaginary, and that far from being taken advantage of by the missionaries, the Swiss emigrants, on the contrary, found on their arrival a good reception and a hearty assistance by the members of the Church of the Saints.

This representation had evidently been produced by a public appeal in the Deseret News of 1st of June, 1886, which overflows with complaint against the correspondent of the Swiss consul at San Francisco and called upon the Swiss established at Utah to give the lie to these assertions. This appeal, reproduced by the Star, 1st July, 1886, is characterized by the style used by the Mormon literature. It is to be regretted, at all events, that the signers of the protest sent to the Federal Council were not able to have their signatures certified to by a proper official.

However it may be, these protests did not seem conclusive to the direction of police, and they believed it their duty to publish an official advice in the public papers in order to dissuade from emigration all those who might be seduced by the tricks of the Mormon agents. At the same time they asked the Federal Council to furnish them the American laws against polygamy in order to complete the elements of the inquiry going on. Among the documents that were transmitted in answer, the most important was the act of Congress of 22d of March, 1882 (Edmunds law), and the proclamation of the governor of Utah, dated 16th July, 1886.

The Edmunds law pronounces severe penalties against polygamy and denies to polygamists the exercise of the civil rights. It places the Territory of Utah under the charge, legislative and administrative, of the Union, and enacts energetic means for the enforcement of the Federal laws. The execution of this law was vigorously conducted and lately its provisions were re-enforced by a resolution of the Senate, the text of which we have not yet received.

The proclamation of Mr. Caleb W. West, governor of Utah, dated 16th July, 1886, reminds the Mormons of the severe penalties against polygamy; and to avert from emigration all the foreigners who might be seduced by the propaganda of the missionaries the governor states "that the principal chiefs of the congregation are hiding, that several of the principal members, apostles, bishops, and preachers, are imprisoned for having transgressed the law, and that the tribunals are overtasked by the great number of transgressions."

Two other Territories where Mormons are established in great numbers (Wyoming and Idaho) have likewise promulgated prohibitive laws against this sect. The execution of them will be easier than in Utah, because the legislature is not ruled there by a majority devoted to Mormonism. The vigorous measures taken against them in America do not at all slacken the zeal of the Mormon agents in Europe, and especially in Switzerland. Lately several rather frequented congregations were called to our attention; the propaganda seems to be exercised more actively than in the past. The number of the missionaries has augmented; among others the apostle Spori is said to

have returned to Berne from Constantinople, where he commonly resides, and from which place he sent the 18th of May, 1886, to the Government a long memorial for the defense of his co-religionists. The presence of I. N. Stucki, too, is communicated to us. This man was formerly well known as one of the most ardent propagators of the Mormon gospel. So the moment is come for the executive council to take definite resolutions concerning this sect. Shall it grow and develop itself under the shelter of liberty of conscience, or shall it be considered as a mischievous association from which it is the right and the duty to deliver the country? This is the question the solution of which can no more be evaded.

This question preoccupies the federal authorities, too, for the federal department of justice and police has taken the opportunity of a recourse addressed to them by a Mormon asking the Government to communicate the measures which the canton of Berne has taken or will take against Mormonism. This request from the department implies that the federal authorities will provide measures when their intervention will be necessary. This recourse, actually pending before the Federal Council, comes from a Mormon missionary named Loosli, of Wyssackengraben. He was condemned by the tribunal of the district of Zofingen to a fine of 100 francs or twenty-five days of imprisonment (beyond seventeen days of preventive prison) and to perpetual banishment from the canton of Argovie for having preached the Mormon doctrine, polygamy included, at Niederwyl (Argovie).

The federal tribunal has already decided that the Mormons can be pursued either for violation of the emigration laws or for the immorality of their doctrine, but that in this case it is a matter for the political authorities to decide if it comes within the principle of the liberty of conscience and belief warranted by article 49 of the federal constitution.

It can not be seriously contested that the Mormon missionaries are indeed agents of emigration, although they do not directly dispatch the emigrant and intervene personally in the conclusion of the contracts. The whole Mormon propaganda tends to sending the adherents to Utah or to the neighboring Territories on which the chiefs of the sect have already thrown their regards. The whole Mormon doctrine concentrates itself in the union of the "saints" in the promised land. The missionaries acknowledge, moreover, that they forward the funds necessary for the transport of the emigrants, and that the latter re-imburse this advance with their savings, and that the chest of tithe centralizes the resources destined for emigration purposes as well as for the wants of the mission.

It results also from the declaration of the police commission of Basle that the missionaries serve as intermediaries to the agencies of Basle and Antwerp, and that these never directly treat with the emigrant. Besides the incontestable demonstration of this state of things the same conclusion results from the fact that all adherents recruited by the missionaries in the canton of Berne have expatriated themselves. Those who remain are either agents come back for the recruitment, or neophytes waiting for the moment of emigration. The Mormon mission at Berne is not and can not be anything else but an emigration business.

In view of the above-mentioned circumstances the Mormon propaganda is a flagrant and permanent infraction of the provisions of article 15 of the federal law, dated 24th December, 1880, concerning emigration, and it must be a duty of the Government to invite the attention of the federal council who are charged to execute this law.

It seems also that the Mormons are of the class of emigrants whose emigration is forbidden to the agents following article 10, number 4 of the law of 24th of December, 1880, for all opinions concur that the United States are interdicting the immigration of the members of the sect. However, the documents that have been communicated to us are not explicit enough in this respect, and there is desired for further information:

Proclamation of the governor of Utah, dated 16th July, 1886: "*I warn all well-disposed persons from associating themselves with any person or organisations for the purpose of emigrating to this Territory.*"

Still it is not to be supposed that the Government of the United States will mitigate the rigor of the measures which it has been necessary to take against Mormonism. Besides that, the "Church of the Saints," if nothing impedes its development, would come to constitute a state in the state, and that by its constitution itself it must fatally enter into a conflict with the public authorities, which it can not absorb, it is certain that the Mormon doctrine must be considered as immoral as long as polygamy is considered wrong, for with the Mormons polygamy is not only an institution permitted, but it is dogma which they are taught to observe. One of the numerous tracts spread in the canton of Berne declares:

"It is an error to attack polygamy as immoral when the Holy Scriptures not only does not qualify it as such, but, on the contrary, authorize and prescribe it as a law. We think to be right to believe in the whole Bible and not to commit any immorality by denouncing the dogmas which it teaches."

So polygamy is the foundation of their doctrine, in Europe as well as in America, and we can not satisfy ourselves with their affirmation that this principle is only to be applied to the "saints" of Utah and that they interdict polygamy to those not living in the Territory, for by the fact that they recruit in Switzerland emigrants for Utah, declaring to them that they will be able to practice polygamy on their arrival in the "promised land," they put themselves in opposition to the American laws which interdict it, and the Swiss authorities would become their accomplices by suffering indefinitely their propaganda.

Besides, it is difficult to take seriously this distinction of polygamy, permitted on the other side of the ocean and interdicted on this side. One of their preachers, named Vaterlaus, declared in their conference of the 19th of December, 1885, in the Emmenthaler Hof, "We are resolved to observe all the laws of the countries we live in as far as they are not in opposition to the commandments of God" (Star, 15th of January, 1886, p. 20). As polygamy is a part of these commandments the rule of conduct of Mr. Vaterlaus may go far. At all events the Mormon agents look above all for recruiting women in our country. The last report of the town council states that they address themselves in preference to poor families that have many daughters, and that they choose especially weak-minded girls (report of Mr. Ochsenbein, pastor, p. 77). There is no doubt that with respect to them Bishop Schönfeld, in the conference above mentioned, declared that "woman has an important place in the church. She has all rights, even that of convoking meetings. Utah is one of the few Territories of the United States where women have the right to vote. We do not consider the woman as a slave, but as a help-mate, and we know that in eternity no man may appear before God without a wife and no woman without a husband." (Star, 15th of January, p. 22.)

The information reaching Europe concerning the fate of emigrants to Utah is quite contradictory, and it can not be otherwise. This society, completely secret, can not be penetrated by outsiders, and these can only inform us of incidents more or less characteristic which they have been able to observe. Whilst, therefore, the communications addressed to the federal council represent the existence of the emigrants to Utah as a moral bagnio wherefrom the greatest part wish to be delivered, other witnesses, whose impartiality seems to be incontestable, give quite contrary information. There has been heard among others during the inquiry Mr. D. Balmer, of Berne, who has visited the Territory of the saints and who admires the results obtained by the Mormons. To believe him, Utah is a model country, where drunkenness, debauchery, game-houses, etc., are unknown.

Perhaps these different statements are not quite irreconcilable. The strict discipline imposed by the sect on their adherents was no doubt able to produce a moderation at least in their exterior habits, and most of the emigrants did not wait for their arrival in America in order to contract the habit of labor and sobriety. But it is most probable that these poor people are victims of misrepresentation, the more refined as it takes the mask of public and religious interest, and are too narrow-minded and too blinded by fanaticism to perceive it. Some of the most intelligent accommodate themselves with this discipline, in which intrigue and ambition of course are finding wide room, or satisfying themselves, these ones take their part of the cake under the title of bishops, priests, and apostles, etc. The great mass feed the chest of tithe to win their salvation.

In order to increase the number of these deluded people, the Mormon agents dispatch every year for Utah a number of our country people.

The Government can not always remain indifferent to these facts. The warnings last year published by the direction of police are insufficient. They have rather furnished to the Mormon agents a topic which they missed till then—that of persecution—and their propaganda has only become the more active.

Half measures will not at all stop it. Either we must consider Mormonism to be a sect like all others, and allow it full liberty to develop itself, or we must loudly declare that we will extirpate it out of the country, and in this case decide to take really efficacious measures.

In our opinion there are only two:

(1) To refuse or withdraw the permission of establishment to every member of a foreign state who we are convinced is a Mormon agent or belongs to this sect.

(2) To interdict in an absolute manner, under heavy penalties provided in article 6 of the law of 3d October, 1875, every reunion or meeting wherein the doctrine of the Mormons will be preached or practiced, or wherein propaganda in favor of this sect will be undertaken.

The expulsion of the foreign agents would only aim at a few American citizens, and the United States would have the less motive to complain, as their country people affected by these measures abusing the Swiss hospitality are recommending and encouraging the violation of the laws of their own country.

As for the interdiction of the Mormon doctrine, it is justified by the fact that the dogma of polygamy being an essential part of the Mormon doctrine, the latter must

be considered as immoral and those who teach it committing an infraction of article 6 of the above-mentioned law. This article authorizes the police to dissolve the assemblies or meetings of religious communities in which there would be anything contrary to morals, and punishes the offenders by a fine of 200 francs or an imprisonment of sixty days. These measures would no doubt have the result to force the disappearance of Mormonism from our territory as soon as the members of the now existing communities would have emigrated to Utah.

This result would only be acquired in a provisional and precarious manner if the dissolved communities were allowed to reform themselves on the limits of the canton. The measure of prohibition ought, therefore, to be general and common to all Swiss cantons. But several of them having no interest whatever in this question, it is impossible to think of regulating the business by a concordat, and there is no other way possible but by applying to the federal council and asking it to make use against the sect of the Mormons of the power conferred by articles 50 (2) and 102 (16), or perhaps to enforce against their sect the interdiction provided in article 51 (Al. 2) of the federal constitution.

We are convinced that it will be sufficient to direct the attention of the federal council to the progress and dangers of Mormonism in order to bring about a general inquiry concerning the intrigues of the Mormon agents in Switzerland and to provide for the interdiction of this so-named doctrine in the whole Confederation.

Therefore, the direction of police has the honor to beg the federal council to order an inquiry concerning the actions of the Mormon agents in Switzerland and to take, with respect to this sect, the measures that will be found necessary for the public interest.

Accept, gentlemen, the assurance of our high consideration.

STOCKMAR,
*The Director of Police.*

BERNE, *May* 27, 1887.

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## No. 1024.

### *Mr. Winchester to Mr. Bayard.*

No. 169.] LEGATION OF THE UNITED STATES,
*Berne, November* 10, 1887. (Received November 21.)

SIR: Switzerland, formerly composed of a number of semi-independent states or cantons, each with its special laws, privileges, and institutions, each maintaining a distinct military force, and constituting a "Staatenbund," became, in 1848, a united confederacy or "Bundesstaat," the supreme legislative and executive authority being vested in a "Bundesversammlung" or federal assembly, composed of two chambers, the "Standerath" or council of States, and the "Nationalrath" or national council. The latter is the popular branch of the assembly, chosen by direct election every third year, one representative being allotted to every 20,000 population and fraction over 10,000. The regular triennial elections for members were held on Sunday, the 30th ultimo. These elections are held under a federal law, but through state or cantonal machinery. It devolves on the federal council or Swiss cabinet to fix the date of the elections. Sunday is invariably designated as the day and a date named that will give abundant time for the holding of the second and third elections that may be necessary for a result before the meeting of the national council on the first Monday in December, as provided in the constitution. The recent elections were for members of the fourteenth national council under the present constitution. The terms of the elected members will begin the first Monday of next month, December, and end the first Monday of December, 1890. The national council at this time is composed of one hundred and forty-five members, and of these one hundred and forty-one were chosen on the 30th ultimo, four having failed of election. For purposes of representation in this body Switzerland is divided into forty-nine arrondissements

or districts, entitled on a basis of population to from one to five members each. Each district must be wholly within one canton or state. Any Swiss who has not lost or forfeited his political rights and is twenty years of age, with the exception of ecclesiastics, is eligible as a member. The voting is by *scrutin de liste*, and a majority of the votes cast is required for an election. When this majority is not received by a number equal to the representation to which the district is entitled, a second election is held the following Sunday to complete the list of members, at which the same freedom in the *scrutin de liste* is permitted as in the first; but if an election again fails, a third one is held, when the *scrutin de liste* is confined to those who received the largest vote at the preceding election and not exceeding three times the number to be elected, and in this third election a plurality is sufficient for a choice. There is no registration of voters required, but in both national and cantonal elections there may be said to be a permanent registration, as the result of the registration of citizenship which is demanded of strangers and citizens alike, for even a *permis de séjour* beyond a very limited time within any district or commune, and from this record every citizen entitled to a vote is sent a "card" of citizenship, which he must present when appearing at the polls. Of the one hundred and forty-five members of the old national council, one hundred and twenty-four are returned to the new, making a change of membership of twenty-one, of which three resulted from the death of old members, sixteen voluntarily retired, leaving only two who sought and failed of re-election. This well-established continuity of service in the Swiss national legislative department answers fully the baseless theories of those who are fond of declaiming against the caprice and ingratitude of the people, and telling us that under democratic forms of government neither men nor measures can remain for an hour unchanged. The spirit which made democratic Athens year by year bestow her highest offices on the patrician Pericles and the reactionary Phocion still lives in the democracies of this little Republic and in its federal assembly. The ministers of kings, whether despotic or constitutional, may vainly envy the sure tenure of office which falls to the lot of those who are chosen to rule in the whole confederation or in the single canton. Re-election is the rule; the rejection of the outgoing officer is the rare exception. There is one member of the national council who has served continuously from the date of its organization in 1848, and many for more than twenty years. Among the deputies chosen at the recent election appear the names of six out of the seven of the members of the present federal council, all whom, it is well understood, will be re-elected by the federal assembly in December to the same positions they now hold, when they will at once resign their seats in the assembly, and elections must be held to fill the vacancies. It is a very strange custom and apparently incapable of any intelligent explanation; like many customs, has simply taken root without any inquiry, and propagates itself without opposition, save in one district, where, of recent years, it has been disregarded, accounting for the absence of the seventh member of the council from the list of deputies. Originally these councilors, when elected to the assembly, took their seats when it convened, exercising all the functions of a member, and at the same time serving as active members of the council or cabinet until they were re-elected to the council for another term of three years, which usually took place in the early days of the session, when they resigned their seats in the assembly and resumed their single service of councilors. But for many years the concurrent exercise of the rights and privileges belonging to these two distinct offices, one legislative, the other executive, whilst not in-

hibited by the constitution, has been considered inconsistent with the spirit of that instrument and the division of power evidently contemplated by it; and whilst the practice continues of electing these men to the assembly and their names are placed on the rolls, and as a matter of fact and law they are vested with the full rights of members, they exercise only those which are incident to their office of federal councilors, a seat in the assembly with participation in debate, but neither vote nor accept the salary of a member. The practical result, therefore, is to have from the meeting of the assembly until the re-election of these men to the council, their resignation, and elections held to fill the vacancies, six mere nominal members of the body, or, in other words, a membership for working purposes of only one hundred and thirty-nine instead of one hundred and forty-five. At every recurring election for the national council the sitting members from the districts wherein the federal councilors reside must make room for this temporary appearance of theirs in the assembly. The requisite number are ever ready to come forward and cheerfully consent to stand aside for this purpose, regarding the tenure thus conferred as merely a *locum tenens* and in nowise impairing, but rather making more sure, their ultimate re-election after a traditional custom has been accommodated. There is but one reason assigned for the adherence to this practice, involving much inconvenience and the expense of a double election in six cases, and that is the desire, notwithstanding the duties and character of a federal councilor is entirely national, to keep up his identity with a local constituency, which, probably, he served for years in the assembly before promotion to the council, and as an evidence of his being in accord with that constituency upon all questions of public policy, certainly a most remarkable assertion of local government influence in a purely national affair.

Of the personnel of the assembly, it seems strange that in a country where a court-house or a lawyer's sign is rarely to be seen and litigation exceptionally resorted to, that so many of its leading citizens should appear as following that profession, "advokats" composing as they do, one-fourth of the membership of the assembly; next in number come merchants, then farmers, physicians, bankers, and professors, with one-third of the whole list given as holders of various cantonal and communal offices, it being very common in Switzerland for a national, cantonal, and communal office to be filled by the same person where duties do not conflict and belong to the same general class. This is regarded as both simplifying and cheapening the public service. The political complexion of the national council remains about the same, being 80 Radical Democrats, 40 Conservatives, and 25 Ultramontanes.

It is impossible to define with any clearness the party lines. The three above given constitute the most distinct general political organizations, but within them are many different shades of opinion that separate on questions of a social, religious, and economical nature. Then these party divisions have an entirely different significance in federal and cantonal matters. The Liberal and Radical of the canton of Vaud is by no means the same as the Liberal and Radical of the cantons of Zurich and Argovie. The Democrat and Radical of Geneva is very different from the Democrat and Radical of St. Galle. It is said that the Liberals or Radicals are those who seek to give the broadest interpretation to the constitution so as enlarge the field of federal authority and strengthen the central government, whilst the Conservatives are jealous of every encroachment upon the traditional prerogatives of cantonal power and desire to restrict and narrow the limits of federal action; but even as to

these questions the parties have several times shifted positions both in federal and cantonal contests. These party divisions seldom appear in the deliberations of the assembly, there being a substantial unanimity on most public questions and general policy of legislation. When in session they impress the observer as business men consulting informally about the common interests with an entire absence of oratory, questions of privilege, points of order or parliamentary tactics; they talk and vote, and there is an end of it. The outgoing assembly during its three years' term had eight sessions; two annually, December and June, required by the constitution, covering one hundred and sixty-nine days. Considering the scope of the powers exercised by the Swiss Federal Assembly very little popular interest seems to be taken in the election of the members, for it exercises a power far greater than that which belongs probably to any legislative assembly, at least in a republic where there is a pretense of distribution of power between the several departments of Government. There is no other country where the direct popular vote has the same authority as here in the choice of its representatives. The federal constitution declares that "with reservation of the rights of the people and of the cantons the supreme power in the confederation is to be exercised by the federal assembly." It is the final arbiter in all questions as to the respective jurisdiction of the executive and the judiciary. In an important ecclesiastical matter last winter, there being some doubt as to whether it belonged to the federal assembly or the federal tribunal (judiciary), the parties interested submitted their memorial to both of them. In its political as in its social organization Switzerland is complacently insular and intensely localized, maintaining composedly and contentedly many usages and ideas of the past.

I am, etc.,

BOYD WINCHESTER.

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No. 1025.

*Mr. Bayard to Mr. Winchester.*

No. 108.] DEPARTMENT OF STATE,
*Washington, November* 11, 1887.

SIR: Your No. 165 of the 17th ultimo, in regard to demanding a declaration of intention to return to the United States from native as well as naturalized American citizens, is received.

While it is true, as you state, that the clause expressing an intent to return is not printed in the "native" as it is in the "naturalized" application forms, yet it must be remembered that these forms are only intended to be a generally applicable means of applying for passports in a uniform shape for our files, and do not prevent our officials abroad from applying any tests which may seem necessary in their judgment to insure the right of the applicant to a passport. Native citizens as well as naturalized ones may expatriate themselves by acquiring a foreign domicile, and should such prove to be the case in any particular instance the protection of this Government as expressed by a passport may be refused by a minister.

Citizens who owe their nationality only to the naturalization of their parents can make their applications on the forms for naturalized citizens, inserting the word "my father" with the parent's name where nec-

essary, and retaining the first person for the date of their birth and the intention to reside in the United States.

The Department fully appreciates your anxiety and carefulness in these matters, and will fully support you in your efforts to secure honesty of purpose in applications for passports and for general protection by your legation.

I am, etc.,

T. F. BAYARD.

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No. 1026.

*Mr. Winchester to Mr. Bayard.*

No. 173.] LEGATION OF THE UNITED STATES,
*Berne, November* 28, 1887. (Received December 12.)

SIR: This legation having been compelled in many recent applications for renewal of passports to decide that the parties were not entitled to continued protection, has in every case retained the old passport when submitted with the application, as required by a circular of instruction.

These parties as a rule when failing to secure a renewal ask for the return of their old passports, and upon a refusal to do so enter more or less violent protests, considering and asserting it to be their property for which they have paid, and its retention unlawful. The legation can not conceive of any just claim the parties have to the possession of these passports, but feels that these surrenders can only lead to the improper use of an extinct instrument. If a passport is good for two years from its date and no longer, and after that date is not to be internationally used as evidence of citizenship, does it not become like a canceled bond or any obligation which has matured and been satisfied, and is the rightful property of the obligor and not the obligee? To satisfy all complaints in this matter, the legation would have the judgment of the Department as to the correctness of the position herein assumed.

I am, etc.,

BOYD WINCHESTER.

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No. 1027.

*Mr. Winchester to Mr. Bayard.*

No. 174.] LEGATION OF THE UNITED STATES,
*Berne, December* 9, 1887. (Received December 27.)

SIR: The international convention upon copyrights, settled at the conferences held here in 1885–'86, the ratifications of which were completed on September 5, came into operation on last Monday. A schedule of twenty-one articles is appended to the order giving it validity.

Russia, Holland, Austria, Greece, and the United States with the Scandinavian Kingdoms, are the important countries not belonging to the bund. The failure of the United States to join the union continues to be regarded as depriving the convention of its chief value.

Some profess to think the practical working of the union will soon change the whole aspect of the question of international copyright, and as its operation is to be discussed at periodical conferences, it is pre-

dicted that at one of these a representative of the United States will ask the delegates to find a place for him, and thus one of its greatest defects will quietly come to an end.

The bureau to be established under the authority of the Swiss Government has not been organized yet, and will not be for some time, probably the latter part of next year.

The bureau having no administrative functions, its immediate existence is not essential for the working of the convention.

I am, etc.,

BOYD WINCHESTER.

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No. 1028.

*Mr. Bayard to Mr. Winchester.*

No. 111.] DEPARTMENT OF STATE,
*Washington, December* 15, 1887.

SIR: Your dispatch No. 173, of the 28th ultimo, inquiring as to what disposition should be made of expired passports which may come into your possession, has been received.

The proper course with regard to such passports is to draw two or three pen strokes through the signature, and to write the word "canceled" across the face of the document, in bold letters, and then return it to the holder.

I am, etc.,

T. F. BAYARD.

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No. 1029.

*Mr. Winchester to Mr. Bayard.*

No. 176.] LEGATION OF THE UNITED STATES,
*Berne, December* 15, 1887. (Received January 3, 1888.)

SIR: "The directorial authority and superior executive power," of the Swiss Confederation is vested by the constitution in a "Bundesrath," or Federal Council, composed of seven members, who are elected by the Federal Assembly, the State and National Council, sitting in joint session. Their term of service is for three years, the same as the members of the Federal Assembly, and the council is wholly renewable after each renewal of the National Council in the lower branch of the Federal Assembly. The latter body having been elected in October, convened in regular session on the 5th instant, and in joint session on Tuesday, the 13th, re-elected all the present members of the Federal Council for three years, beginning the 1st of January, 1888. Six of the seven members are classed as Radical-Democrats and one as Conservative. The Federal Council act as ministers in chief of the seven administrative departments of the Republic, and under a new organization of these departments, to go into force January 1, they are classified in the following manner: (1) Political and commerce; (2) interior and public works; (3) justice and police; (4) military; (5) finance and customs duties; (6) industry and agriculture; (7) railways, posts, and telegraphs.

A full and specific statement of the redistribution of all the subordi-

nate bureaus under this re-organization of the departments was furnished in my dispatch of May 13, 1887, No. 124.

These departments are allotted by the members of the council after their election in such manner as they may adopt, and it is said so far it has not been found necessary to establish any arbitrary method, the assignments being made by an agreeable understanding among themselves. There is no question of rank involved, each being of equal dignity, the constitution declaring that the allotment has simply for its object "to facilitate the examination and expedition of business, and all decisions must emanate from the council as their authority." It can only hold its deliberations when four members are present, and is presided over by the President of the Confederation, he being a member of the council and chief of one of the departments.

In no case can more than one member of the Federal Council be chosen from the same canton, and a well-established custom assigns one member to each of the cantons of Berne, Zurich, Vaud, Aargau, and St. Galle or Thurgau, with one each to the Swiss Catholics and to the Italian Swiss. The qualifications for the members are the same as for members of the National Council, in which body, as well as in the Council of State (Senate), they have a consultative voice and the right to submit motions in matters under consideration. Their salary is 12,000 francs per annum, or $2,316; the President, receiving 1,500 francs additional annually, or $2,605; and they can not during the term of their service fill any other employment, either in the service of the Confederation or in a canton, nor can they pursue any other career or practice any profession (article 97, constitution).

The attributes and obligations of the Federal Council within the limits of the present constitution are thus described:

(1) It directs federal affairs conformably to the laws and decrees of the Confederation.

(2) It guards the observance of the constitution, laws, and decrees of the Confederation, as well as the prescriptions of federal *concordats*. It takes of its own accord or on complaint the necessary measures to secure such observance when the remedy is not of the number of those which are to be brought before the federal tribunal in accordance with article 113.

(3) It watches over the guaranty of the cantonal constitutions.

(4) It presents projects for laws or decrees to the Federal Assembly and gives its opinion in advance on propositions submitted to it by the councils in the cantons.

(5) It provides for the execution of the laws and decrees of the Confederation, and for that of the judgments of the federal tribunals, as well as of the proceedings or arbitration sentences in points of difference between cantons.

(6) It makes all appointments not assigned either to the Federal Assembly, to the federal tribunal, or to any other authority.

(7) It examines treaties of the cantons among themselves or with foreign powers, and approves them if there is ground. (Article 85, page 4.)

(8) It guards the interests of the Confederation abroad, especially in the observation of its international relations, and it is in general charged with care of foreign relations.

(9) It guards the external safety of Switzerland, to the maintenance of its independence and its neutrality.

(10) It guards the internal safety of the Confederation, to the maintenance of tranquillity and order.

(11) In a case of urgency, and where the Federal Assembly is not in session, the Federal Council is authorized to raise the necessary troops and to make disposition of them, under condition of immediately convoking the councils when the number of troops raised exceeds 2,000 men, or if they remain under arms longer than three weeks.

(12) It is charged with all that concerns the federal military, as well as with all the other branches of administration pertaining to the Confederation.

(13) It examines those laws and ordinances of the cantons which must be submitted for its approval; it exercises a surveillance over those branches of cantonal administration which are placed under its control.

(14) It administers the finances of the Confederation, proposes the budget, and renders the accounts of receipts and expenditures.

(15) It watches over the administration of all officials and employés of the Federal Government.

(16) It renders account of its administration to the Federal Assembly at each regular session; presents a report to the same on the condition of the Confederation, as well in regard to domestic as foreign affairs, and recommends to its attention those measures which it deems useful to the increase of the common prosperity. It renders also special reports on demand of the Federal Assembly or one of its branches.

(17) It has authority to call in experts on special subjects.

These provisions are all contained in a chapter of the constitution styled "Bundersrath," or Federal Council.

The same sure tenure of service shown by my dispatch No. 169 to exist in the Federal Assembly prevails in the Federal Council. Indeed, the changes, almost without exception, are entirely voluntary.

In some remarks recently made by the President in a public meeting the Swiss view of public business and officials is well expressed. He said:

Facts and not persons are what interest us. If you were to take ten Swiss, every one of them would know whether the country was well governed or not. But I venture to say that nine of them would not be able to tell the name of the President, and the tenth, who might think that he knew it, would be mistaken.

The Federal Council in its present form came into existence with the constitution of 1848, the first election of its members taking place in November of that year. The election, therefore, occurring on the 13th instant was the fourteenth triennial renewal of the council, and covering a period of thirty-nine years. During this time twenty-seven names complete the list of persons who have been elected members. Of these seven died during the term of service, eleven voluntarily retired, leaving only two who have been defeated for re-election, one on a personal, the other on political grounds. It should be remarked that this most remarkable conservatism in retaining these high officials in their places and the greatest power and influence under the Government has survived angry and fundamental questions of public policy, such as the revisions of the constitution in 1871 and 1874, in reference to which the members of the council were divided, and actively participated in the discussions of the various issues, in many instances antagonizing the views of the majority in the assembly to which they owed their election, and who were expected to continue them in office. The election on the 13th instant was practically unanimous, there being no organized opposition, and only a few scattering votes cast for other names. The seven men elected, or rather re-elected, are Dr. Karl Schenk, of Berne, in service since 1863; Emil Welti, of Aargau, since 1866; B. Hammer, of Solothurn, since 1875; N. Droz, of Neuenberg, since 1875; W. Hertenstein, of Zurich, since 1879; L. Ruchonnet, of Waadt, since 1881; A. Doucher, of Thurgau, since 1883.

All of these gentlemen have served their turn as President except Mr. Hertenstein, Messrs. Schenk and Welti having served in that capacity each five times.

Organized thus on the departmental system, with a very close scrutiny by the whole people, the chiefs of the various departments manifest great activity, with much laborious detail work, in their respective dominions. In no country are the affairs of public interest considered in a more earnest, critical, and patriotic spirit than they are by the Federal Council of Switzerland. As a rule they are men of a high order of natural ability, well educated, and thoroughly disciplined in the public service. Of course it is one thing to provide the machinery of government for a small state, and quite another to meet the requirements of many millions of people. Switzerland, seeking no alliances,

conquests, nor colonies, from topographical peculiarities, the interests of jealous neighbors, and the traditional habits of a peasant population, well trained to provincial self-government, assured in the permanence of a democratic federation, has worked out an eminently wise and simple form of government. There is an orderly and systematic arrangement of the governing bodies and areas—communes grouped into districts, districts into cantons, cantons into the Confederation; the small size, great independence, and many functions of these small groups seem to produce good results in contentment, order, economical administration, and a clean and efficient public service, with light taxation.

I am, etc.,

BOYD WINCHESTER.

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No. 1030.

*Mr. Bayard to Mr. Winchester.*

No. 113.] DEPARTMENT OF STATE,
*Washington, December* 19, 1887.

SIR: It appears by a dispatch from our consul at Zurich, No. 137, of the 24th ultimo, that the anarchists of that city, having threatened the consulate with violence in consequence of the execution of the Chicago anarchists, the Swiss federal authorities, at your request, took the consulate at Zurich under police protection.

I will thank you to express to the Swiss Government the Department's high appreciation of its prompt action in taking measures to protect the archives and property of the American consulate and the person of the consul from the consequences of apprehended popular disturbances.

I am, etc.,

T. F. BAYARD.

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No. 1031.

*Mr. Winchester to Mr. Bayard.*

No. 178.] LEGATION OF THE UNITED STATES,
*Berne, December* 22, 1887. (Received January 3, 1888.)

SIR: In March, 1873, John Weiss, a native of Baden, Germany, and Eliza Küngli, a native of the Canton of Zurich, Switzerland, were married in New York City. In October, 1873, John Weiss, the husband, was made a citizen of the United States by naturalization. In 1878 said Weiss and his wife came to Europe, and in 1880 Weiss returned to the United States alone, abandoning his wife, who has continued to remain abroad, and is now a pauper and mentally diseased at Wald, in the Canton of Zurich. She has no information of the whereabouts of her husband, or whether he is alive. There is no possibility of Mrs. Weiss returning to the United States unless assisted and taken in charge by some one. The cantonal ministry of justice and police of Zurich, having obtained from the New York court a duplicate copy of the decree declaring John Weiss a citizen, and also a certified copy of

the marriage certificate of John Weiss and Eliza Küngli, now present these to the United States consul at Zurich, and request that a passport be issued to Mrs. Weiss as a citizen of the United States. It is inevitable that Mrs. Weiss, wherever she be, must continue a public charge as a pauper lunatic, and it occurs that the authorities may possibly contemplate, in event of a passport being issued, to secure her return to the United States under the plea of her husband being there. What shall be done?

I am, etc.,

BOYD WINCHESTER.

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No. 1032.

*Mr. Bayard to Mr. Winchester.*

No. 116.] DEPARTMENT OF STATE,
*Washington, January* 5, 1888.

SIR: Your dispatch No. 178, of December 22, 1887, has been received. It relates to the application of the cantonal authorities of Zurich, Switzerland, for a passport for Mrs. Eliza Weiss.

It appears from your dispatch that Mrs. Weiss is a Swiss by birth; that in 1873 she married in the city of New York John Weiss, a German subject, who was subsequently naturalized in the United States; that in 1878 the couple went to Europe, and in 1880 Weiss deserted his wife and returned to the United States; and that his wife has since remained abroad, and is now residing, a pauper and mentally diseased, at Wald, in the Canton of Zurich.

The case has several points in common with that of Mrs. Margaret Blümeling, as to which sufficient instructions were sent you on July 11, 1885, and to which you are now referred, as well as to Wharton's Digest, section 193.

There is, however, a peculiar feature in the present case as to which more particular information is desired. Whether the husband of Mrs. Weiss is still alive is, according to your statement, a matter of doubt; while there is no question that he deserted her in 1880, and has since then done nothing for her support. She is, it appears, a Swiss by birth. Under ordinary circumstances her continuous residence in Switzerland, after such death or desertion, would revive her Swiss domicile and nationality, and preclude her from claiming the rights of a citizen of the United States. If, therefore, you find that she has resided in Switzerland since 1880, apart from her husband, and deserted by him, then you must decline to give her a passport, she, by her election, having ceased to be a citizen of the United States.

Nor is it any objection to this view that she is a lunatic. Even were it proved that she was such at the time of her husband's desertion, yet the local guardians who then took charge of her were entitled to make such an election in her behalf.

I am, etc.,

T. F. BAYARD.

No. 1033.

*Mr. Winchester to Mr. Bayard.*

No. 188.] LEGATION OF THE UNITED STATES,
*Berne, January* 31, 1888. (Received February 13.)

SIR: The Department recently had occasion to make acknowledgment of the prompt response of the Swiss Federal Council to the request of this legation to place the American consulate at Zurich under proper police protection against apprehended disturbances on account of the execution of the Chicago anarchists.

Zurich, for some time, has been infested with a large number of anarchists, mostly foreigners, enjoying the right of asylum under Swiss domicile, who have indulged in much violent demonstration by word of mouth and publications. Three of the most prominent leaders of the gang were expelled from Switzerland by a decree of the Federal Council on the 27th instant. This action is based on article 70 of the Swiss constitution, viz:

The Confederation has the right to expel from its territory strangers compromising the domestic or foreign safety of Switzerland.

The decree of expulsion, as published, is as follows:

Resolution of the Federal Council ordering the expulsion of Alfred von Ehrenberg, Peter Emil Schopen, Ignaz Metzler, natives of Germany, who have, during their domicile in Switzerland, belonged to the party of anarchists, have maintained intimate relations with the chiefs of that party, supporting their ideas and projects, and, by attempting to execute the doctrines of the anarchists in their native country whilst residing in Switzerland, have been guilty of an abuse of the right of asylum; therefore, in application of article 70 of the Federal constitution, it is

*Resolved* (1), The domicile in the territory of Switzerland is hereby prohibited to Alfred von Ehrenberg, Peter Emil Schopen, and Ignaz Metzler, natives of Germany.

(2) The foregoing resolution is published in the Feuille Fédérale, and communicated to the federal department of justice and police and to the cantonal government of Zurich.

In the name of the Federal Council.

HERTENSTEIN,
*The President of the Confederation.*
RINGIER,
*The Chancellor of the Confederation.*

BERNE, *January* 27, 1888.

If the decree of expulsion fails to suppress these disturbers of the public peace, it will be applied to others who may persist in the abuse of their domiciliary rights. Those who are natives or naturalized Swiss will be proceeded against according to the law of the canton.

It is also understood that the Federal Council has requested the Zurich municipality to exercise full legal supervision over publications issued from the socialist printing office in that city.

I am, etc.,

BOYD WINCHESTER.

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No. 1034.

*Mr. Winchester to Mr. Bayard.*

No. 190.] LEGATION OF THE UNITED STATES,
*Berne, February* 13, 1888. (Received February 25.)

SIR: In your number 116, January 5th ultimo, in answer to my 178 of December 22, 1887, relating to the application of the cantonal authorities of Zurich for a passport for Mrs. Eliza Weiss, a desire was ex-

pressed for more particular information as to whether the husband of Mrs. Weiss was still alive. A reply has been delayed by the effort to obtain the said information. An inquiry addressed through the United States consul at Zurich to the cantonal authorities brings the answer that to the best of their belief and knowledge Weiss is still alive and residing in the United States, and that a request has been forwarded to the Swiss minister at Washington to take steps to ascertain his whereabouts. Permit me to say, after reading the whole dispatch, that the matter of the desired information appears not to have been regarded as essential for the determination of the question submitted, for after the request is made for it, the dispatch goes on until it reaches the conclusion that Mrs. Weiss, upon the facts presented, is not entitled to a passport, entirely independent of the fact as to her husband being alive or not; for you say, "under ordinary circumstances her continuous residence in Switzerland after such death or desertion would revive her Swiss domicile and nationality and preclude her from claiming the rights of a citizen of the United States," when, to meet any presumption that her case could not be considered as one "under ordinary circumstances," you continue, alluding to her being a lunatic, that no objection can be made on that ground, for "even were it found that she was such at the time of her husband's desertion, yet the local guardians who then took charge of her were entitled to make such an election on her behalf."

Her continuous residence in Switzerland since 1880, the date of her husband's desertion, and the desertion, were conceded; therefore the "revival of her Swiss domicile and nationality," as above held by you, must follow, and without reference to her husband being alive or not. This principle is again emphasized by the instruction with which the dispatch closes, "if you find she has resided in Switzerland since 1880 apart from her husband and deserted by him then you must decline to give her a passport, etc." I could not hesitate, under this clear and positive instruction, to decline issuing the passport, and have so advised the consul to notify the authorities. But on reflection the case causes me many serious misgivings. In originally submitting it to your superior judgment, the Blümeling case to which you refer was not overlooked.

I remembered that case very well, and indeed, in some measure, the opinions therein given induced me to seek advice, as being one strongly appealing to the views "that the regulations as to passports should not be applied certainly in a way to exclude from a passport persons by whom it may be most needed." Here was a poor, helpless, demented woman, deserted by her husband, with neither the means nor the mind to do anything, asserting her American citizenship by presentation, through others, of the naturalization certificate of her husband.

Diseased of mind, must she be held to a strict construction of a by no means well-defined principle as to loss of acquired citizenship by return and continuous residence in the country of origin, when this residence, continuing a few years, was a coerced residence in every sense, being brought abroad by her husband in all probability for that very purpose? Can she be deprived of her American citizenship through default of others? Does the failure of the local guardians who had charge of her, if there were any, for it has not appeared whether she is confined in an asylum or not, to make an election on her behalf, work the loss of her citizenship? Suppose there has never been any *de lunatico inquirendo*, and she is simply in charge of charitable relatives or friends, would their delinquency in making the "election" for her

have the same effect? Again, should it be found that her husband is alive and residing in the United States, a citizen thereof, what becomes of the law conferring on the wife the right of the citizenship of her husband? This right, it has been held, can not be impaired by an indefinite residence abroad, her nationality and domicile following and remaining that of her husband. If this be true, *a fortiori* residence abroad, even in the country of nativity of one incapable of any volition, and abandoned there by her husband, could not operate to do so. Should the Swiss minister learn of the whereabouts of Mr. Weiss in the United States, would not the cantonal authorities be justified in returning his wife there that he might be compelled to support her? for, as correctly ruled in the Blümeling case, the statute of August 2, 1882, applies by its terms only to persons who are not citizens.

The question resolves itself into this: Grant that the continuous residence abroad in the country of origin by a wife apart from her husband may deprive her of the nationality of that husband even during his lifetime, can such a residence, when involuntary and the result of the husband's desertion, operate to the same extent in reviving the original domicile and nationality as if he were dead?

Your dispatch, as I understand it, holds that it would.

I am, etc.,

BOYD WINCHESTER.

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No. 1035.

*Mr. Winchester to Mr. Bayard.*

No. 191.] LEGATION OF THE UNITED STATES,
*Berne, February* 17, 1888. (Received February 27.)

SIR: Swiss federalism repeats the essential traits of the federal polity as it exists in the United States, with the addition of many interesting and instructive peculiarities which give it an individual character. "Whilst in some European countries very anomalous forms of governments have assumed the republican name, it is certain that there is at least one European state in which republicanism is both properly understood and practiced." In Switzerland, as in the United States, there is no single determinate sovereign body or assembly, or any real sovereign other than the people themselves. In the Swiss Confederation the popular will does everything, the legislative power being directly exercised by the body of the people by way of *plebiscites*, whilst in the Republic of France the tendency is to centralize the direction of public affairs almost entirely in the Chamber of Deputies; and in that of the United States, it is claimed with some color of truth, the initiative and legislation is being gradually taken away from Congress by a very occult but authoritative government of committees.

The most obvious difference revealed on first glance by the Swiss political system is the absence of the clear and total separation of the national from the local authorities, federal from state power, and the elaboration of checks and interlocking vetoes found in the United States. The Swiss have the three organs, a federal legislative, a federal executive, and a federal court, but they fail in the strict separation of each of these departments from, and its independence of, the others.

There are two chief forms of union between states, confederation and federation, both composite political bodies; the first retains the char-

Second. Those rights exclusively conferred on the Confederation; the manufacture and sale of war powder; to maintain the post-office and telegraphs (with inviolability of the secrecy of letters and telegrams); to coin money, determine the monetary system and legislate as to the issue and redemption of bank-notes, but must not create any monopoly for the issue of bank-notes nor decree the obligatory acceptance of these notes; to establish weights and measures; to declare war and conclude peace; to make foreign alliances and treaties, with the reservation to the cantons, with federal approval, to conclude foreign treaties on matters concerning public economy, neighborhood, and police; to regulate fishing and hunting; supreme inspection over dikes and forests in the elevated regions; to grant rights for the construction and to regulate the management of railroads; to collect import and export duties, but the former must, as far as practicable, subject articles necessary to the industry and agriculture of the country and necessaries of life to the lowest possible tax, and levy the highest tax upon articles of luxury.

Third. The special restrictions upon the cantons; no canton to have more than 300 men as permanent troops without authority from the Government, and in event of differences arising between cantons, they shall abstain from all course of action or armament, submitting to decisions rendered conformably to federal prescriptions; no treaty or alliance of a political nature to be entered into between the cantons, except with the approval of the Government; agreements may be concluded between them on matters of legislation, administration, and justice, and as to these the federal power may be invoked for their execution. These are the only powers expressly prohibited to the cantons, all the others resulting from the relinquishment through the direct and discretionary assumption given the federal Government, as already stated.

Chapter II, Federal Authorities, embraces (1) federal assembly, (2) federal council, (3) federal chancellery, (4) federal tribunal, (5) national languages.

The first two, representing the legislative and executive departments, have been fully treated of in my numbers 169, November 15, and 176, December 15, ultimo.

(3) The chancellery is simply vested with the secretaryship of the federal assembly, custodianship of the records, the preparation for and publication of all official decrees of the federal council, and legislative enactments of the assembly. The chancellor is elected by the assembly for a term of three years, and at the same time that the federal council is chosen.

(4) Federal tribunal: It provides there must be a federal tribunal for the administration of justice in federal matters, the members of which must be appointed by the federal assembly, which shall see that the three national languages are represented in it. Any Swiss citizen eligible to the national council may be appointed to the tribunal, and its members must not engage in any other employment, career, or profession.

*Civil jurisdiction* extends to cases (1) between the Confederation and one or several cantons; (2) between the Confederation and corporations and individuals as plaintiffs, when the suit attains a degree of importance to be fixed by federal legislation; (3) between cantons; (4) between cantons and corporations or individuals, when one of the parties demands it, and when the suit attains a degree of importance to be fixed by federal legislation.

Further, it has jurisdiction in cases relating to *heimathlosat* (those who have no local citizenship), and differences between communes as to

the right of town, and of all causes placed within its competence by federal legislation.

*Penal jurisdiction.*—Its jurisdiction, aided by the jury, which must decide the facts, goes to cases of (1) high treason against the Confederation, revolt and violence against the federal authorities; (2) crimes and offenses against the law of nations; (3) political crimes and offenses which are the cause or consequence of troubles requiring armed federal intervention; (4) charges against functionaries named by a federal authority when committed to the tribunal by such authority, and other cases placed within its jurisdiction by the constitution or laws of a canton, ratified by the federal assembly.

*Public law.*—The tribunal is further given jurisdiction in cases of (1) conflicts as to competence between federal and cantonal authorities; (2) differences between cantons when within the domain of the public land; (3) claims for violations of rights guaranteed by the constitution or federal legislation.

The tribunal shall in all cases before it apply the laws voted by the federal assembly and the decrees of said assembly having a general bearing. It shall also have regard in its decisions to the treaties that have been ratified by the assembly.

The assembly is authorized to place other affairs within the competence of the tribunal.

(5) The national languages: German, French, and Italian are declared to be the national languages of the Confederation.

Chapter III. Revision of the constitution. It provides that the constitution may be revised at any time, and when the two branches of the federal assembly can not agree upon any proposed revision, or when 50,000 Swiss citizens having the right to vote demand revision, the question shall be submitted to a popular vote by "yes" or "no," and if a majority of those voting affirm, the two branches of the federal assembly shall be renewed in order to carry out the revision. It closes with the provision that the constitution as revised shall take effect when accepted by a majority of the Swiss citizens and by a majority of the cantons, the popular vote in each canton to be taken as the vote of the canton.

The transient regulations which follow are unimportant, being designed simply to give time to the cantons in some instances to harmonize existing local laws with the provisions of the constitution, the most notable one being the postponement for five years of the enforcement of article 27, requiring the cantons to furnish gratuitous instruction in the public schools.

This concludes the constitution as submitted and adopted by a popular vote on Sunday, April 19, 1874, a result reached with considerable opposition, the vote being 340,199 for and 198,013 against; cantons 14½ for and 7½ against, the votes of the half cantons being counted as a half vote.

Three amendments of the constitution have taken place since its ratification or within fourteen years of its history.

The first amendment in 1879 repealed the provision abolishing capital punishment and adopted as a substitute that "no condemnation to death shall be pronounced for reason of political offense. Corporal penalties are prohibited."

The second amendment in 1885 modified article 31 and interpolated article 32 *bis*, so as to authorize the "spirit monopoly" by the Confederation.

The third amendment in 1887 modified article 64, placing legislation

as to the protection of inventions (patent law) within the jurisdiction of the Confederation.

There have been many important measures rendered necessary by the revision of 1874, and also the assumption of the greater part of the discretionary powers given the general Government. Among these may be mentioned laws in reference to military service and the tax for exemption, pensions, labor in factories, regulating professions of medicine and dentistry, railroad construction and management, civil capacity and obligations, protection of literary and artistic property, regulating fishing and hunting; forestry, dikes, and water-courses in the mountain sections, uniform law in election of Federal Assembly, citizenship and expatriation, method of taking the *referendum*, banking law, telephone made part of telegraph monopoly, spirit monopoly, general bankrupt and patent law (pending); a very full law concerning the social state (*état civil*), making civil marriages obligatory, regulating divorce, and withdrawing from the clergy the keeping of the register of births and deaths and conferring it upon the civil authorities of the Confederation, and a carefully considered reorganization of the federal judiciary in harmony with the provisions of the constitution. The leading features of the last measure are: Fixing the number of the federal tribunal at nine; term, six years; the three national languages to be represented; salary, 10,000 francs *per annum;* kinsmen in direct line indefinitely and in line collateral to the degree of cousin-german not to be members or officers of the tribunal at the same time; a president and vice-president of the tribunal, to be chosen every two years by the Federal Assembly; vacations not to exceed the aggregate of four weeks during the year; mode of impaneling the jury; formation of the assizes; defining more particularly the jurisdiction within the constitution and federal legislation, and fixing 3,000 francs as the minimum amount for jurisdiction, in so far as necessary to carry out the constitutional demand on limitation; the division of the tribunal for penal cases into three sections, the chamber of accusation, the jury department, and the council of appeal; locating the seat of the tribunal at Lausanne. In this connection it may be said that the constitution does not establish any accurate division between the executive and the judicial departments, the former exercising, under the name of "administrative law," many functions of a judicial character, especially in reference to religious bodies. The Federal Assembly (Congress) is the final arbiter as to disputed jurisdiction between the executive and the federal court. The court is greatly occupied with questions of public law, and some of the ablest Swiss statesmen do not hesitate to doubt the propriety of the court possessing any jurisdiction in matters of private law. The court can not even execute its own judgments and must depend for their execution on the Federal Council and the executive councils of the cantons. The acts of the Federal Assembly must be treated by the court as constitutional. It is thought that the constitution itself almost precludes the possibility of any encroachment upon it by the legislative department. Then when the sovereign, as in Switzerland, can so easily enforce its will, it may trust to its own action for maintaining its rights; when, as in the United States, the same sovereign acts so rarely and with such difficulty, the courts naturally become the guardians of the sovereign will as expressed in the constitution. Following the minute detail method of the constitution, a striking instance may be cited in the federal law as to "civil capacity and obligations." It consists of upwards of nine hundred articles, and deals with every imaginable kind of contracts except those relating to the acquisition

and transfer of the ownership of land, which forms part of the independent legislation of the several cantons. Twenty-five articles, however, relate to the lease of farms. There was much opposition to it at the time of its passage as contravening the article of the constitution prohibiting federal interference in the ownership of soil, but it was successfully contended on the other hand that it merely had to do with the rights of persons. To an impartial observer it must appear as a very doubtful exercise of the power granted.

The constitution is conspicuous for the entire absence of any provisions touching those personal rights and ancient muniments of liberty, embracing what is known as the bill of rights contained in the first ten amendments of our Constitution. They may have been omitted for the same reason that they were omitted from the original Constitution of the United States, as being sufficiently implied and understood in any system of free government. These cardinal rights are said to be expressly provided for in the cantonal constitutions, with the exception of trial by jury, which even for felonies does not universally exist, but instead of the unitary system of judge, they have a tribunal, a judicial body almost tantamount to a jury. Again it is held that all natural and inherent rights are guarantied by the article of the constitution requiring that the organic laws of the cantons must "assure the exercise of rights after republican forms." It is astonishing the repeated references in the Swiss constitution to matters of religion and church; it is evident the framers were determined to be secure from any recurrence of the religious intolerance that marked a period in the early history of the country. Whilst the Constitution of the United States makes only two allusions to religion, one in Article VI.

> No religious test shall ever be required as qualification to any office or public trust under the United States;

and the other in the first amendment,

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof—

that of Switzerland contains no less than a dozen, viz: Primary instruction in the cantons must be exclusively under the civil authority, must be open to attendance by adherents of all religious confessions, without suffering in liberty of conscience or belief—liberty of conscience and faith must be inviolable. No one can be constrained to form a part of a religious association, or to perform a religious act, or to incur penalties of whatever nature they may be for the sake of religious opinion; persons exercising paternal or tutelary authority have the right to dispose of the religious education of children up to the age of sixteen years; the exercise of civil and political rights can not be restrained by prescriptions or conditions of an ecclesiastical or religious nature, whatever they may be; no one can for the sake of religious opinion exempt himself from the performance of a civic duty; no one shall be obliged to pay taxes for the support of the worship of a religious community to which he does not belong; the free exercise of worship is guarantied within the limits compatible with public order and good morals; Confederation may take necessary measures for the maintenance of public order and peace among the members of different religious communities; it may provide against encroachments of ecclesiastical authorities on the rights of citizens and of the state; disputes of public or private right to which the creation of religious communities give rise may be carried by way of appeal before the competent federal authorities; bishoprics can not be set up without the approval of the Confederation; the order

of Jesuits is forbidden, and all action in the church and in the school prohibited to their members—this prohibition may be extended to other religious orders the action of which is dangerous to the state or disturbs the peace between the denominations; it is forbidden to found new convents or religious orders or to re-establish those which have been suppressed; civil state and the keeping of the registers relating thereto is of the jurisdiction of the civil authorities (taking them away from the clergy); the right to dispose of places of sepulture belongs to the civil authorities, and they shall provide that every deceased person be decently interred (aimed at denial of burial by church); no hindrance to marriage can be founded on denominational reasons; no one to be deprived of his natural judge (against church courts, etc.); ecclesiastical jurisdiction is abolished; and every lay citizen having the right to vote is eligible to the National Council. These provisions, as fully stated in the constitution, are almost equal to the complete text of that of the United States, and produce no small part of the subject-matter brought before the Federal Assembly and the federal tribunal.

The Swiss constitution provides no executive power in the sense of that of the President of the United States; there is practically no such functionary; but the executive authority is deputed to a council of seven, as explained in my No. 176, and the authority of the Swiss legislative department (see my No. 169), whilst it nominally exceeds that of Congress, in reality is weaker, for every ordinary law duly passed by the Swiss Federal Assembly may be legally annulled by a popular vote (*referendum*). While it is true in each case there lies in the background a legislative sovereign capable of controlling the action of the ordinary, the sovereign power is far more easily brought into play in Switzerland than in the United States. There is no qualification for any federal office higher than that for any member of the lower branch of the Assembly; this is simply to be a Swiss citizen twenty years old and having the right to vote. So one twenty years of age may be eligible to the Presidency or seat on the supreme bench. The *referendum* is one of the most characteristic of Swiss institutions, having existed for many years previous to its incorporation in the constitution of 1874 in several of the cantonal constitutions, and its adoption by the Government was feared by some of the most experienced members of the convention to invite interference with a prudent and independent direction of public affairs on the part of the populace. They now concede that it has proven neither ineffective nor unduly obstructive. The article relating to the *referendum* is brief; it reads:

> Federal laws are submitted to the adoption or regulation of the people when the demand therefor is made by 30,000 active citizens or by eight cantons. The same is the case with federal decrees which are of general scope and which are not urgent in character.

Under further authority given for the forms and delays to be observed in this popular voting or *plebiscite* to be regulated by federal legislation, the time within which the *referendum* must be taken has been fixed at ninety days from the date of the publication of the law. The official publication of the law expressly calls attention to its date and the "date of opposition," as it is termed, or when the period for *referendum* expires.

The vote is "Yes" or "No," and a simple majority of those voting is decisive. Since 1874 among the laws passed by the Federal Assembly and vetoed by the popular vote under the *referendum* has been a law creating a department (federal) of education; creating a department of justice; an electoral law; a law on currency; a law increasing the

salary of the minister at Washington; and a law permitting a change of venue to the federal court when there is reason to suspect the fairness of a cantonal tribunal. It seems remarkable that under a *referendum* upon a cantonal law a progressive income tax was negatived with respect to the subsidies the Government has the power to grant to works of public interest. It has never been exercised, only in some very insignificant sums, except in the case of the St. Gothard Railroad, which pierced the Alps with a tunnel of 9 miles in length, and of incalculable value to the whole of Switzerland. Even in the smaller subsidies the Government never gives beyond 50 per cent. of the cost of the work, and only to be paid when the work is completed and approved, the canton obliging itself to keep it in good order and repair. The right to subsidize other institutions for higher instruction besides the Polytechnic, specifically given in another article, has not been exercised, the appropriation for the Polytechnic Institute at Zurich having been made before the adoption of the present constitution.

Citizenship in Switzerland, as defined by the constitution and the laws made in pursuance thereof, is a very complex and involved affair. Under the Constitution of the United States "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside." It may be said there are no citizens of the United States except the citizens of the States and Territories.

The Swiss constitution reverses the order named in that of the United States, and says:

> Every citizen of a canton is a Swiss citizen.

Thus making the local or cantonal citizenship the basis of Swiss citizenship. It further contains a similar provision to that of the United States, insuring that the citizens of each canton shall be entitled to all the privileges and immunities of the several cantons. It is thus expressed:

> All cantons are obliged to treat citizens of the other cantons as those of their own in the matter of legislation and in all that concerns judicial methods.

Then follows, however, a qualification of this right in another article, which says:

> Every Swiss citizen has the right to establish his residence at any point in Swiss territory in consideration of the production of a certificate of origin or other similar document.

This refers to his communal citizenship, for every Swiss must have a communal citizenship, and this "right of township or origin," obtained by inheritance, gift, or purchase and by marriage to the wife, is a sacred and imprescriptable right, which the constitution places above the power of a canton to take away or impair. It is this principle so deeply imbedded in the Swiss system and idea of citizenship that has stubbornly blocked the way to all the efforts to negotiate a naturalization treaty between the United States and Switzerland. In fact no special right of Swiss citizenship exists. With natives communal citizenship takes the precedence; but with a foreigner seeking citizenship a difficult and tedious process is encountered. He first obtains from the federal council authorization to do so, and this body with a due regard to the serious task undertaken allows two years within which this permission may be used. The applicant then sets out to find communal citizenship; this is a matter of purchase; when acquired he must get cantonal citizenship, otherwise the other two steps taken are of no effect and void. The cantonal citizenship is the capstone and the most difficult

to secure. The permit from the federal council is *pro forma* as a rule' the communal citizenship purely a matter of bargain with some slight inquiry as to character, but the cantonal citizenship is only granted after a full investigation of the party's antecedents and all the conditions going to make up a desirable citizen. Communal and cantonal citizenship must be in the same canton.

The grant of a cantonal or communal naturalization without the previous approval of the federal council as indicated is also void. The right of Swiss citizenship ceases only with death, or by the voluntary renunciation, by the person who possesses it, of his cantonal and communal right of citizenship and by the release which the competent authority of the canton gives him; and this firm tie which binds him to his country is not even then loosed until he submits satisfactory proof that he has acquired citizenship in a foreign country and is in full enjoyment of all its civil rights.

It will be seen that entrance and exit to Swiss citizenship is a very formidable undertaking, and the law recognizes the very common dual citizenship resulting from its peculiar provisions, and declares that—

Persons who in addition to Swiss citizenship are citizens of a foreign country are not entitled to the privileges and the protection accorded to Swiss citizens during their residence in such foreign state.

The constitution secures to every citizen above twenty years of age the right to vote in federal affairs wherever he may be domiciled at the time of the voting, without regard to the time he has been domiciled, by simply establishing his qualifications as an elector, and in cantonal affairs after a residence of three months, and communal affairs after a residence of six months; the latter does not extend to affairs relating to communal and corporation private rights and property. Nearly all of the cantons have adopted the age fixed for federal electors, and their citizens are politically of age when twenty years old; there are a few exceptions, notably in the canton of Graubünden, where the age is seventeen.

Then in some cantons a difference is made between political and civil majority; for instance, in the canton of Zurich the former is 20 and the latter 24. The various cantonal restrictions present a wide field, there being a general concurrence in excluding from suffrage bankrupts, persons committed for felonies or under trial for the same, those legally declared paupers, and, in many cantons, confirmed inebriates.

The constitution, as heretofore stated, presents no well-defined division of the powers of the general government and the cantons, and with the exception of the customs post and telegraph, which are under federal law and executed by federal officers, the federal laws are executed by the cantons and communes, producing many shades of difference in construction and enforcement. Whilst each canton is independent and sovereign, except in so far as it is bound by the limitations of the federal constitution, or by resolutions of the federal assembly in fulfillment of and in conformity with the constitution, there is presented the same great political problem upon which all republican forms of government have been and are still working, how to insure peaceful and healthy concerted action throughout the whole without infringing upon proper local and individual freedom in the parts. Previous to 1798 the cantons of Switzerland were all practically founded upon privilege, many in the condition of a great feudal lord, with an aggregate of many separate seignioral properties, acquired partly by conquest, partly by purchase. The masses of the people were largely excluded from political power, and it was not until the successful movement of 1830 that a recognition of the sover-

eignty of the people was fairly obtained, with an elective franchise exercised alike in town and country. Bloody encounters between cantons took place, such as that between upper and lower Valais, when the latter was vanquished by the former with more bloodshed and cruelty than ever illustrated the record of civil dissensions in a century. During this period each canton had a separate coinage, and the "raps and bats" of one were not a legal tender in the next; each had an agent at Vienna, Rome, and Paris; each one claiming to treat with kings and recognize all sovereign acts; each kept a custom-house on every road and manned a tower at every bridge, at which to levy rates; each load of grass and butt of wine, each sack of corn and pound of cheese that passed the boundary was taxed; the last remnant of these powers levying certain rates on wines at the cantonal frontiers, called *ohmgeld*, only disappeared in 1886, when the Government assumed a monopoly of spirits, both as to manufacture and tax. The perilous disposition to the employment of force between the cantons, or the Government and the cantons, culminated in 1847. The two extreme and opposite parties, one for the complete fusion of the cantonal government into one common and unitary confederation, the other for a complete disruption of the pact and formation of several governments out of it, distinct from each other, resulted in the formation by the latter of the sonderbund, a league of seven cantons—Lucerne, Freibourg, Schwytz, Unterwalden, Uri, Zug, and Valais. This league was pronounced to be illegal and an infringement of the pact. Refusing to disband, war was declared by the Diet, and 100,000 troops on the part of the Government, in eighteen days after entering, suppressed the rebellion; and from that day the peace of Switzerland has not been disturbed, every one of the cantonal governments manifesting an unshaken determination to maintain and strengthen the Confederation. The national Government has steadily extended its influence; every change has taken something from the canton and commune and bestowed it on the league or the citizen; each revision of the constitution has increased the authority of the nation at the expense of cantonal independence. This is no doubt in part due to the desire to strengthen the nation against foreign attack. Yet it is impossible to study attentively the march of Swiss affairs without seeing that what really lies next to the hearts of the people is their cantonal and communal system, and although a well-assured nationality is kept up in event of foreign danger, nevertheless the citizens look for protection, as well as for command, to their own cantonal authority. A familiar comparison is often used in speech which illustrates the relation of the cantonal to the federal feelings, "My shirt is nearer to me than my coat."

The federal council, the executive power of the Government, still retain a very affectionate and reverential tone in their communications to the cantons, addressing them as "Faithful and dear confederates," and closing, "We embrace this occasion, faithful and cherished confederates, to commend you with ourselves to divine protection." From the foregoing summary given of the Swiss constitution and the laws enacted in furtherance of its aims, a paternal feature is very pronounced; it takes cognizance of the citizen at his birth by registration and guarding him through life by a multitude of guaranties; it insures him a "decent burial;" and this searching, far-reaching central authority has been administered in a beneficent and patriotic spirit, with the zealous preservation of all the highest natural rights of man.

The position of Switzerland has always been, and continues to be one of extreme difficulty, but she has maintained herself with dignity

and success. She has with every step taken made a steady advance in the direction of liberty, and has achieved, as shown, a form of government in its essential traits closely assimilated to ours. One of the greatest contributions she has made to the general progress of civilization has been to show how under a federal system even the obstacles and prejudices that are attendant upon differences in race, language, and creed can be surmounted. Her population is formed by four ethnical elements, distinct by their language as German, French, Italian, and Roumansch; the last is found in the Grisons, and is less removed from the Latin than either the French or Italian. Thus in the central mountain region between Germany, France, and Italy portions of these three great peoples have formed small republican communities. Individual cantons have a national character, either because all their inhabitants belong to one people, as in the German cantons of northern and eastern Switzerland, or in the French cantons of western Switzerland, or in Italian Ticino; or because one nationality decidedly prevails, as the German in Berne and Graubünden, and the French in Freibourg and Valais. And in point of religion the cantons are sharply divided as Protestant and Catholic. The result of holding different peoples together without transforming them in favor of one nationality has been attained only by being impartial, and allowing each people free course in its inner life and civilization, and regarding them all as possessing equal rights, and in having a policy governed by general and not by special and national considerations. In spite of what would seem the most discordant and unmanageable elements, an enduring bond of unity has been found in a federation of peace and neutrality under one federal commonwealth, and to-day Switzerland is as thoroughly united in feeling as any nation in Europe. Deeper down than these deep-seated differences of speech and creed lies the feeling that comes from the common possession of a freedom, political and civil, greater than that possessed by surrounding peoples. Such has been the happy outcome of this attempt at federal union.

Complete independence in local affairs, when combined with adequate representation in the federal council, has effected such an intense cohesion of interests throughout the nation as no centralized government, however cunningly devised, could ever have secured. Although the league of cantons has survived a hundred monarchies and never ceased to be a union of republics, it has lived through many forms in the nearly six hundred years of public life; it has been feudal, clerical, imperial, radical, by turns; constitutions have been overthrown in 1798, 1803, 1814, 1846, 1848, 1866, and 1874; but all these changes were but the signs of life and growth; in every stage of her historical growth additional security and extension has been gained for those general rights and interests of the citizen which should lie beyond the proper sphere of local laws and customs. To-day it is a confederation formed by a federation of twenty-two cantons, the cantons a union of autonomous communes; a rural democracy administering its business safely, wisely, economically, patriotically, seeking neither alliances nor conquests nor colonies.

To be a citizen of a great and growing state or to belong to one of the dominant races of the world is a legitimate source of patriotic pride, though there is an equal justification for such a feeling in being a citizen of a state which, in spite of its small dimensions, has nevertheless achieved so much, fighting as it were alone for centuries the battle of freedom.

I am, etc.,

BOYD WINCHESTER.

No. 1036.

*Mr. Bayard to Mr. Winchester.*

No. 129.] DEPARTMENT OF STATE,
*Washington, March* 19, 1888.

SIR: I have to acknowledge the receipt of your No. 190, of the 13th ultimo, in relation to the application made in behalf of Mrs. Eliza Weiss, an insane pauper, by the authorities of Zurich, for a passport as a citizen of the United States.

As appears by previous correspondence, Mrs. Weiss, a native of the canton of Zurich, was married in the city of New York, in March, 1873, to John Weiss, a native of Baden, Germany, who in October of the year named became a naturalized citizen of the United States. In 1878 Weiss and his wife left the United States and returned to Europe. Two years later, in 1880, while residing in the canton of Zurich, Weiss deserted his wife and, it is said, returned to the United States, leaving her in her native place, where she has since remained. From the date of the desertion, eight years ago, to the present, it does not appear that anything has been heard of Weiss, and it is not known that he is alive or that he ever reached the United States.

Mrs. Weiss having been abandoned by her husband, it was held by the Department that her remaining in Zurich after her desertion would under ordinary circumstances presumptively revive her Swiss domicile and nationality; and it was also held that, notwithstanding her lunacy, such a revival of domicile and nationality might be caused by the election of her local guardians.

Upon reading the instruction of the Department you declined to issue Mrs. Weiss a passport; but having misgivings as to your decision, you present the case again to the Department for consideration.

It is not thought necessary to enter into the discussion of the abstract question you suggest, of how far the revival of original nationality of a wife which takes place when she elects to remain in her native country after the death of her husband may be held to exist where she elects so to remain in case of desertion by him. The Department would be disposed in such a case to make every allowance for the unfortunate situation of the wife, and in making its decision would not be unmindful of any circumstance of which humanity might require notice to be taken.

But in the case you now present consideration for the helpless condition of the wife seems to be altogether against and not in favor of an extreme assertion by the Department of her American citizenship. The Department does not see in her what you describe as "a poor, helpless, demented woman, deserted by her husband, with neither the means nor the mind to do anything, asserting her American citizenship by the presentation through others of the naturalization certificate of her husband."

On the contrary, turning to your No. 178, of the 22d of December last, the Department finds that it was the cantonal ministry of justice and police who obtained from the New York court a copy of the decree of naturalization of her husband; that the same authorities obtained the certificate of her marriage to Weiss in New York; that they presented these papers to the United States consul at Zurich and requested for her a passport; and that, having failed in this request, they are now having a search made in the United States for the missing husband. This is explained by your statement in the same dispatch that Mrs. Weiss must, unless supported by her husband, remain a public charge.

The only use to which, so far as the Department is informed, a passport could in her case be put would be to enable her to be exported to the United States, from which she would, as an insane pauper, be excluded unless able to establish American citizenship. So far as known, such exportation would merely involve, if she were admitted into the United States, the transfer of the burden of her support from the place where she now is to some community in this country. She claims no rights of property here and no political privileges; and her removal from the canton of Zurich to the United States would only be taking her from her place of nativity, where she has chiefly resided and is now cared for, to a place where, as a stranger, she would be wholly dependent upon fortuitous aid.

At present, therefore, the Department does not perceive any reason for revising your decision.

I am, etc.,

T. F. BAYARD.

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No. 1037

*Mr. Bayard to Mr. Winchester.*

No. 130.] DEPARTMENT OF STATE,
*Washington, March* 22, 1888.

SIR: Referring to your dispatch No. 168, of October 24, 1887, in which you inclose a memorial addressed by the direction of police of Berne to the executive council of the canton, concerning the organization and operation of Mormon agents, and suggesting measures necessary to be taken for their effective suppression, I have now to request you to bring to the attention of the Federal Government of Switzerland, orally and unofficially, the views of the Government of the United States in regard to Mormon emigration.

It has come to the knowledge of this Government in various ways that Mormon agents in Switzerland have lately been increasing their activity. This Department has already had occasion to invite the attention of your predecessors to this subject, and you will find in the archives of your legation an instruction dated August 9, 1879, in which the matter was fully discussed, and our representative in Switzerland at that time was directed to urge the subject upon the attention of the Swiss Government.

It is thought that the present would be a favorable occasion for renewing the representations then made to prevent the emigration to this country of persons who intend to violate the laws of the United States by entering into polygamous relations.

In this connection, I may also call your attention to the act approved February 26, 1885 (U. S. Statutes at Large, vol. 23, p. 332), as amended by the act approved February 23, 1887 (U. S. Statutes at Large, vol. 24, p. 414), by which it is made unlawful "for any person, company, partnership, or corporation, in any manner whatsoever, *to prepay the transportation, or in any way assist or encourage* the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, express or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform

labor or service of any kind in the United States, its Territories, or the District of Columbia."

It is believed that the Mormon emigrants brought over to this country come within the letter of this law, although perhaps the evidence of that fact may be difficult to secure. There can be but little doubt that they do make agreements, express or implied, to perform labor or service of some kind upon their arrival in the Territory of Utah, in consideration of the prepayment of their transportation and the assistance which is afforded them to emigrate.

Your dispatch of October 24, 1887, indicates a disposition on the part of the Swiss Government to use their influence to check this migration, and it may be suggested to them that this influence can be perhaps profitably exerted in securing evidence under which the admission of such persons into the United States will be effectively prohibited under the provisions of the act to which I have herein called your attention.

I am, etc.,

T. F. BAYARD.

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No. 1038.

*Mr. Winchester to Mr. Bayard.*

No. 210.] LEGATION OF THE UNITED STATES,
*Berne, April* 20, 1888. (Received April 30.)

SIR: The Swiss Government seems determined to break up the nest of anarchists in Zurich. For some years it has been a rendezvous for this class of men, principally from Germany, abusing the Swiss right of asylum, for the propagation of their doctrines by the publication of newspapers, pamphlets, etc., and the distribution of those published in other countries, including many from the United States. Very naturally, under the toleration shown them, their violence and disregard of the conditions under which they were entitled to domicile, soon reached a point rendering it necessary to enforce the law against them. In January last (reported in my No. 188), there was an expulsion of the most prominent leaders, and a warning served on others. This warning has not been heeded, but to the contrary, their organs defiantly declared that they would not and could not desist from, or in any degree abate, the temper and character of their utterances, for they were but discharging a sacred duty which they must fearlessly pursue. To-day the Swiss Federal Council promulgated a decree of expulsion against four of them: Edward Bernstein, the chief editor, and Herman Schlütter, distributing agent of the newspaper called The Social Democrat; and Ernest Motteler, distributor, and Johann Fauscher, foreman of the printing-office from which was issued a socialist pamphlet entitled Der Rothe Teufel (The Red Devil), containing a furious attack in prose, verse, and caricature on the German Government and the Emperor. All of them are natives of Germany, and Herman Schlütter is reported to be a naturalized citizen of the United States.

I am, etc.,

BOYD WINCHESTER.

No. 1039.

*Mr. Winchester to Mr. Bayard.*

No. 212.] LEGATION OF THE UNITED STATES,
*Berne, April* 21, 1888. (Received May 7.)

SIR: In pursuance of instructions conveyed by your No. 130, of the 22d ultimo, on yesterday I called to see the chief of the Swiss Federal department of justice and police, orally and unofficially advising with him as to measures that might be taken to prevent the emigration from Switzerland to the United States of persons who intend to violate the laws by entering into polygamous relations, and informing him that it had come to the knowledge of the United States Government that Mormon agents in Switzerland had lately been increasing their activity. His attention, as directed in your dispatch, was specially called to the provisions of the act approved February 26, 1885, as amended by the act approved February 23, 1887, prohibiting the importation and immigration of foreigners and aliens under contract or agreement to perform labor, etc., and that the influence of the Swiss Government might be effectively used in securing evidence to bring these Mormon recruits within the inhibition of this act. I am glad to report that the chief met my suggestions in a prompt and sympathetic spirit, expressing a perfect willingness to co-operate in every legal way to check and break up this obnoxious migration. At his request a copy of the act has been furnished to him, and he has promised to instruct the Federal and cantonal police authorities at the localities where the Mormon emissaries mostly operate, to ascertain and report as far as possible under what sort of agreements as to the prepayment of their transportation or assistance otherwise extended them, these Mormon emigrants are sent to the United States. I am satisfied, as heretofore stated, that the Swiss Federal officials are disposed to lend every assistance and enforce as far as practicable the law denouncing the "forwarding of persons to whom the laws of the country to which they emigrate prohibit entry." But it should be remembered that it is a much more difficult matter for a government to control emigration than immigration.

As an evidence of the attention given this whole subject by the Swiss Government, at the last session of the Federal Assembly, a thorough revision of the law controlling emigration agencies, etc., was made, all the changes being in the direction of throwing further safeguards and increasing the police supervision over violations of the law by these agencies. Under the revised law, in addition to the bond of 40,000 francs now required from the chief agency, each sub-agency must execute bond in the sum of 3,000 francs, and those engaged in selling passage tickets to emigrants, a bond of 20,000 francs. Copies of the law are transmitted under separate cover as printed matter. It awaits the expiration of the *referendum* date before going into force, but it is hardly possible a *referendum* will be demanded.

I am, etc.,

BOYD WINCHESTER.

No. 1040.

*Mr. Bayard to Mr. Winchester.*

No. 137.] DEPARTMENT OF STATE,
*Washington, May* 11, 1888.

SIR: Your dispatch No. 212, of the 21st ultimo, reporting your action under my instruction No. 130 of the 22d of March last to you, relative to measures for preventing the emigration to this country from Switzerland of persons who intend to violate the laws of the United States by entering into polygamous relations, has been received.

Your course is approved by the Department.

I am, etc.,

T. F. BAYARD.

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No. 1041.

*Mr. Winchester to Mr. Bayard.*

No. 230.] LEGATION OF THE UNITED STATES,
*Berne, August* 17, 1888. (Received August 27.)

SIR: Last year the congress of the institute of international law took place at Heidelberg, and on the 30th of September next it will be opened at Lausanne, the seat of the Swiss federal tribunal.

The list of subjects for discussion was selected at last year's assembly and comprises the common features of the conflict of civil laws; the conflict of the laws relative to marriage and divorce; joint stock companies, and encounters at sea. Then comes the law of extradition, international penal law, the occupation of unclaimed territories according to the treaty of Berlin; the international laws concerning railways, telegraphs, and telephones in time of war; and finally, a question of vital importance for Switzerland, in what manner and in what limits can governments exercise the right of expulsion of strangers.

I am etc.,

BOYD WINCHESTER.

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## CORRESPONDENCE WITH THE LEGATION OF SWITZERLAND AT WASHINGTON.

No. 1042.

*Mr. Kloss to Mr. Bayard.*

[Translation.]

LEGATION OF SWITZERLAND,
*Washington, August* 13, 1887. (Received August 15.)

MR. SECRETARY OF STATE: In notifying the contracting countries of the accession of the United States to the union for the protection of industrial property, the federal council called their attention to the mention inserted in the report of the session of March 12, 1883, of the second Paris conference (reports, page 37), according to which the Swiss Federal Government was authorized to accept the subsequent acces-

sion of the United States with the reservation made in fourth paragraph of the draught of the final protocol of 1880, which reservation is as follows:

The plenipotentiary of the United States of America having declared that, according to the Federal Constitution, the right to legislate in matters relating to trade-marks is, to a certain extent, reserved to each of the States of the American Union, it is agreed that the stipulations of the convention shall be applicable only within the limits of the constitutional powers of the high contracting parties.

The French Government, in acknowledging the receipt of the notification of the federal council, requested it to induce the United States to define their situation as regards those parts of the convention to which their constitutional laws do not permit them to adhere in connection with trade-marks, or at least to communicate the constitutional texts in question.

The federal council replied to the French Government as follows:

The reservation relative to the constitutional situation of the United States seems to us very clear. The American Constitution does not place legislation concerning trade-marks within the competence of the Federal law-making power as it does legislation concerning literary property and patents. For this reason, the Federal law of July 8, 1870, which regulated the protection of trade-marks for the entire Union, was declared unconstitutional and void by a decision of the Supreme Court of the United States which bears date of November 18, 1879. Being unable to regulate, in the interior of the country, the protection of trade-marks in a uniform manner, Congress, basing its action upon its constitutional right to legislate concerning matters connected with the commerce of the American Union with other countries and with the Indians, enacted the law of March 3, 1881, which regulates the ownership of foreign trade-marks and of those used by American citizens in trading with the Indian tribes and with other nations. There exists, therefore, in the United States, in the matter of trade-marks, an international law based upon the act of March 3, 1881, and comprising the registration of trade-marks, and a national law which is based solely upon the common law. According to the foregoing, we think ourselves authorized to conclude that the reservation made by the representative of the United at the Paris conference means that foreigners domiciled outside of the United States will be protected by the law of March 3, 1881, and that those established in that country will be obliged to content themselves with the protection resulting from the common law, which protection, in reality, is as effective as the one first mentioned.

Our Government said, in conclusion, that it did not think it necessary to ask the United States Government for information on this subject, but that it was willing to do so if France wished it.

The federal council has now received a note from the embassy of France, informing it that, in the opinion of the minister of commerce, its explanations but incompletely define the scope of the reservation under which the accession of the United States took place. It may be admitted that, in consequence of the accession of the United States to the convention of March 20, 1883, trade-marks belonging to citizens of the States of the Union for the protection of industrial property are to be deposited in the United States in accordance with the provisions of the federal law of March 3, 1881. That law, however, establishes only the formalities required for the deposit of trade-marks belonging to foreigners, and, according to article 3, marks consisting merely of the name of the applicant are not admitted to deposit. Now, article 6 of the convention of 1883 is more liberal, and provides that "any trade-mark that has been regularly deposited in the country of its origin shall be admitted to deposit and protected just as it is in all the states of the union." Will the restriction contained in article 3 of the American law of 1881 be applicable to foreigners who present for registration at the Patent Office at Washington, according to article 6 of the convention of 1883, marks consisting merely of the name of the applicant?

It is important that this question should be elucidated, and that with as little delay as possible. If article 6 of the convention of 1883 could

be applied to the United States as being at variance either with the special laws of the states on the subject of trade-marks, or with the federal law of 1881, the accession of the United States would be productive of no advantage to the citizens of other states of the union, because American citizens would enjoy all the advantages of the convention in the territory of the contracting powers, while those advantages would be refused in the United States to the citizens of those powers.

In compliance with the desire expressed in the French note, the Federal Council instructs us to request you to be pleased to furnish us, with all convenient speed, as precise explanations as possible concerning the scope of the constitutional reservations made by your representatives at the Paris conferences of 1880 and 1883.

As to the special question whether the exceptional situation of the United States would permit your country to maintain, as regards citizens of the other states of the union, article 3 of the act of March 3, 1881, our Government unhesitatingly declares for the negative, and thinks that this article will be replaced by article 6 of the convention of March 20, 1883. "According to the reservation," continues the dispatch of our Government, which forms the subject of this correspondence, "the stipulations of the convention shall be applicable only within the limits of the constitutional powers of the contracting parties." Now, the American law of March 3, 1881, is a federal law. It is therefore within the constitutional competence of the central Government of the American Union, and may, consequently, be modified by the convention of March 20, 1883.

We have the honor to beg you, in the name of the Swiss Federal Council, to be pleased to cause your esteemed reply in reference to this matter to be communicated to us with as little delay as possible.

We are, etc.,

K. KLOSS.

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No. 1043.

*Mr. Kloss to Mr. Bayard.*

[Translation.]

SWISS LEGATION,
*Washington, August* 20, 1887. (Received August 22.)

Mr. SECRETARY OF STATE: We have the honor to inclose a circular note which the Swiss Federal Council has just addressed to the Governments of the states represented in Switzerland by diplomatic or consular officers concerning the reciprocal prepayment of the correspondence exchanged between these Governments and their representatives.

Pray accept, etc.,

K. KLOSS.

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[Inclosure.—Translation.]

*The Swiss Federal Council to Mr. Bayard.*

BERNE, *July* 27, 1887.

Mr. MINISTER: The Universal Postal Congress of Paris (1878), and that of Lisbon (1885), were occupied with the question of ascertaining whether it would not be proper to render obligatory the prepayment of correspondence dispatched by the authorities of the different countries and especially by the diplomatic and consular agents residing abroad.

The congresses of Berne, Paris, and Lisbon having always defeated by a large majority the motions offered to prescribe the obligatory prepayment of all correspondence, it is natural that these congresses should have been unable to stipulate this obligation for only a part of this correspondence, namely, that dispatched by the authorities or the diplomatic and consular agents.

But the congresses of Paris and Lisbon recognized none the less the great inconveniences resulting from the non-prepayment of the correspondence in question, especially of that dispatched by diplomatic or consular agents residing abroad. Therefore, in full session of May 28, 1878, the Universal Postal Congress of Paris, after an excited and thorough debate, resolved as follows: "It is the spirit of the treaty which has given birth to the Universal Postal Union, and should be regarded as a result of that treaty, that prepayment should be made as general as possible, especially by the agents of the Governments."

It appears from the debates of the postal congress held about seven years later (in 1885, at Lisbon), that attention has not been paid everywhere to this very well founded desire.

In fact, according to the report of the first committee of the latter congress on the revision of the main convention, session of February 14, a delegation made the following observation:

"The provision which forbids free postage, except that of the post-office departments, is not generally observed. There are, then, Governments which do not require their agents abroad to prepay their correspondence, and it may be imagined the postage is not paid on its arrival; were this the case, the matter would be of no importance from the stand-point of the treasury of the country.

"It is, in fact, granting free postage to the injury of the post-office department of the country of origin, which, moreover, has to pay the transit cost of the correspondence forwarded."

After the debate which this observation brought on, and in which the fact alleged was not denied, the committee agreed to abide by the desire expressed by the Paris congress.

The difficulty that certain diplomatic or consular agents residing abroad do not prepay the correspondence dispatched by them to their Governments exists none the less at the present moment either as a course pursued originally or by way of reprisal.

The Swiss Federal Council is of opinion that it would be well in the interest of all the Governments to put an end to this condition of things, which is so far from conforming with the spirit of the Union. To do this it would be sufficient for the Governments to bind themselves reciprocally to order their diplomatic and consular agents residing abroad always to wholly prepay the correspondence they may address athem. In this way a condition of affairs perfectly regular and equitable would be ssured without injury to the interests of any of the countries, as there would be reciprocity everywhere.

We have the honor to propose to your excellency that an engagement in the sense above mentioned may be mutually entered into by our two countries, an engagement for which a simple declaration would suffice, in our opinion.

Expecting your kind reply, we avail ourselves of this occasion, etc.

In the name of the Swiss Federal Council.

SCHENK,
*The President of the Confederation.*
RINGIER,
*The Chancellor of the Confederacy.*

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## No. 1044.

### *Mr. Kloss to Mr. Bayard.*

[Translation.]

SWISS LEGATION,
*Washington, September* 13, 1887. (Received September 14.)

Mr. SECRETARY OF STATE: By note of August 13 last, we had the honor to ask you to kindly furnish us as early as possible with as precise explanations as were in your power concerning the extent of the constitutional reservations made by your representatives at the Paris

Conferences of 1880 and 1883 concerning the protection of industrial property.

In order to inform your Department of the interpretation given to these reservations in certain quarters, our Government transmits to us numbers 5 and 8* of the "Journal of the Chambers of Commerce" as well as No. 7 of the "Industrial Property," which treat of this question from different stand-points.

While taking the liberty to forward with this the pamphlets just mentioned, we avail, etc.

K. KLOSS.

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No. 1045.

*Mr. Adee to Mr. Kloss.*

DEPARTMENT OF STATE,
*Washington, September* 16, 1887.

SIR: In your note of August 20 last you inclose a circular note from your Government, which points out the evils resulting from the non-prepayment of correspondence exchanged between the Governments of the Postal Union and their diplomatic and consular agents in foreign countries, and propose that Switzerland and the United States shall reciprocally bind themselves by a declaration to order their diplomatic and consular agents residing abroad to always wholly prepay the correspondence they address their respective Governments.

I have the honor to state in reply that the subject has been examined by this Department and by the Postmaster-General, and from this examination it appears that the only franked mail matter passing free to and from the United States is the correspondence exchanged between the postal administrations of the states of the Postal Union, which is necessary for the execution of the treaty and in accordance with its provisions.

This Government employs, by special arrangements with certain countries, closed diplomatic pouches, which are conveyed at its expense outside of the mails.

All correspondence exchanged in the open mails between it and its diplomatic and consular officers abroad is always wholly prepaid by postage stamps, whether passing to or from the United States.

In view, therefore, of the fact that the course which the Swiss Government desires to make the subject of a reciprocal engagement is now pursued by the United States so far as the open mails are concerned, this Government does not consider it either necessary or advisable to enter into the arrangement suggested. I have the honor to beg that you will communicate to the Federal Council this reply to its proposition.

Accept, etc.,

ALVEY A. ADEE,
*Acting Secretary.*

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* Inclosures not printed herewith.

No. 1046.

*Mr. Frey to Mr. Bayard.*

[Translation.]

LEGATION OF SWITZERLAND,
*Washington, January* 5, 1888. (Received January 6.)

Mr. SECRETARY OF STATE: The undersigned had the honor, by his notes, of January 6 and March 11, 1887, to call your attention to the fact that the treaty for the reciprocal protection of trade-marks, which was concluded by Mr. Frelinghuysen and the undersigned on the 14th day of February, 1885, had not yet been ratified by the United States Senate.

As the undersigned has received no reply to either of the aforesaid notes, he takes the liberty to remind you of this matter and to beg you to be pleased, if possible, to induce the Senate to take it into consideration, and to approve or reject the said treaty, as it may deem proper.

Accept, etc.,

E. FREY.

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No. 1047.

*Mr. Bayard to Mr. Frey.*

DEPARTMENT OF STATE,
*Washington, January* 11, 1888.

SIR: Mr. Kloss' note of the 13th of September last, in which he asks this Department to furnish your legation as precise explanation as possible concerning the extent of the constitutional reservation made by the American representatives at the Paris conferences of 1880 and 1883, concerning the protection of industrial property, was duly received.

The subject to which these inquiries relate is one of great importance to the industry of this country as well as of Europe, and I am fully sensible of the desirability of furnishing to all persons interested precise explanations of the extent of the constitutional reservations under which this Government necessarily acts in the matter of trade-marks.

The Government of the Swiss Confederation being charged, under article 13 of the treaty of March 20, 1883, with the supervision of the Bureau of the International Union for the Protection of Industrial Property, is especially entitled to be placed in full possession of the precise legal status of this question.

I have therefore given the subject the fullest consideration, and have examined with attention the legislation and the reported decisions of the courts of the United States and of the several States, in the hope of being able to address to you an answer which should be a complete and authoritative exposition of the rights of persons who may register trade-marks in accordance with the provisions of the treaty already referred to, and of the statutes of the United States. The result of this investigation has, however, been such as to convince me that the precise extent of the authority of Congress to deal with the registration and protection of trade-marks, and the precise effect of the statutes enacted by that body, are by no means free from doubt, and upon mature delib-

eration I have decided to refrain from expressing my individual views upon a subject which has not yet been passed upon in all its aspects by the judicial branch of this Government.

The Constitution of the United States prescribes a very distinct separation between the functions of the legislative, executive, and judicial branches of the Government, each of which is, in its appropriate sphere, independent of the others. It is for the executive branch to carry out the laws which Congress may in its wisdom see fit to enact. In the performance of this duty the Department of the Interior has been engaged, since the enactment of the statutes already referred to, in the registration and protection of trade-marks in the manner prescribed by the laws, and it has had occasion, as I am informed, to register a very large number of trade-marks from citizens and aliens alike, to the great benefit, probably, of persons engaged in commerce. But, nevertheless, any person, a citizen or a foreigner, may at any time, if he feels himself aggrieved by the operation of these laws, invite a decision of the question whether in their enactment the legislative branch had not exceeded the powers conferred upon it by the Constitution. That question is one which is not within the competence of the Executive to decide. When it arises it must be passed upon by the appropriate tribunals and, in the last resort, by the Supreme Court of the United States.

With the decisions of that high tribunal already pronounced you are perfectly familiar, but I may invite your attention to the fact that in passing upon the validity of the act of Congress of 1870, the Supreme Court, in 1879, took pains to state that it left untouched "the whole question of the treaty-making power of the General Government over trade-marks, and the duty of Congress to pass any laws necessary to carry such treaties into effect."

Since 1879 the court has not, so far as I am aware, been called on to express any further opinion on the subject. What may be its decision upon the points suggested by the communication of Mr. Kloss it is not proper for me to predict. My own opinion, should I undertake to give it, would not in any respect affect the deliberations of the court.

At the same time, such a statement might naturally be regarded as possessing an official sanction which, under the Constitution of the United States, could not properly attach to it.

These considerations, which your long and intimate acquaintance with the institutions of this country will enable you to appreciate in their full force, have thus led me to the conclusion that it would be undesirable at this time to attempt to furnish you with precise explanations concerning the extent of the constitutional reservations made by the representatives of this Government at the Paris Conferences of 1880 and 1883, touching the protection of industrial property.

In communicating to you this conclusion, I beg that you will express to the Government you so worthily represent my expression of regret that the peculiar relations of the Federal Government to the several States and the limitations imposed by the Constitution of the United States upon the several branches of the Government, forbid my conforming to the legitimate desire of the Government of the Swiss Confederation for an authoritative statement of the present condition of the law.

Accept, etc.,

T. F. BAYARD.

## No. 1048.

### *Mr. Frey to Mr. Bayard.*

[Translation.]

LEGATION OF SWITZERLAND,
*Washington, January* 31, 1888. (Received February 1.)

Mr. SECRETARY OF STATE: The undersigned, minister of the Swiss Confederation, has the honor, by direction of his Government, to transmit you the inclosed note from it, and avails, etc.,

E. FREY.

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[Inclosure.—Translation.]

*The Swiss Federal Council to Mr. Bayard.*

BERNE, *January* 13, 1888.

Mr. MINISTER: We have the honor to inform your excellency that when the international convention of September 9, 1886, for the protection of literary and artistic works went into operation, we decided to place under one management the international bureau of industrial property, now existing at Berne, and the new international bureau, with the organization of which we are charged by the aforesaid convention. By this measure, which leaves the spheres of action of the two bureaus entirely distinct, we wished to satisfy the desires of several countries belonging to the international unions. It will easily render it possible, in view of the great analogy existing between industrial property and literary and artistic property, to effect a large saving in the management and to reduce to a minimum the share which is payable by each of the contracting states.

Having thought that under the present circumstances the appointment of a director on the same footing as those of the international bureaus of posts and telegraphs was not indispensable, we have just designated Mr. Henri Morel, a national councilor and former president of the federal assembly, to fill the office of secretary-general of the two bureaus until they shall be definitely organized by the appointment of a director. Mr. B. Frey-Godet, who has hitherto been secretary of the international bureau of industrial property, has been appointed second secretary of the two bureaus, and it will be his duty to sign in the absence of the secretary-general. Federal Councillor Droz is to have the superintendence-in-chief of the management of these bureaus.

Hoping that this action will meet with the approval of your Government as a member of the union for the protection of industrial property, we avail, etc.

In the name of the Swiss Federal Council.

HERTENSTEIN,
*The President of the Confederation.*
RINGIER,
*The Chancellor of the Confederation.*

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## No. 1049.

### *Mr. Frey to Mr. Bayard.*

LEGATION OF SWITZERLAND,
*Washington, February* 18, 1888. (Received February 20.)

SIR: The undersigned, minister of the Swiss Confederation, has the honor, in pursuance of instructions received from his Government, herewith to transmit to you the inclosed note, and he avails, etc.

E. FREY.

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[Inclosure.—Translation.]

*The Swiss Federal Council to Mr. Bayard.*

BERNE, *January* 31, 1888.

Mr. MINISTER: We have the honor to inform your excellency that the ratifications of the convention for the establishment of an international union for the protection

of literary and artistic works were exchanged at Berne on the 5th day of September, 1887, by the representatives of Germany, Belgium, Spain, France, Great Britain, Hayti, Italy, Switzerland, and Tunis.

According to the provisions of article 20 the convention went into operation three months after the exchange of the ratifications; that is to say, on the 5th day of December, 1887. The bureau of the international union for the protection of literary and artistic works, for which provision is made in article 16, has been in operation since January 1, 1888. The union may, consequently, be considered as regularly established.

According to article 18 of the convention countries that have not yet become parties to the convention, but whose laws secure protection of the rights which form the subject thereof, are to be allowed to accede thereto at their request, and it will be sufficient for that purpose for notice of their accession to be given in writing to the Swiss federal council.

In bringing the foregoing to your excellency's knowledge, we hope your country will soon join the union for the protection of literary and artistic works, the object of which is to protect beyond the national frontiers rights which, in the majority of countries, are regarded as sacred.

We avail, etc.

In the name of the Swiss Federal Council.

HERTENSTEIN,
*The President of the Confederation.*
RINGIER,
*The Chancellor of the Confederation.*

## No. 1050.

### *Mr. Bayard to Mr. Frey.*

DEPARTMENT OF STATE,
*Washington, March* 17, 1888.

SIR: I have the honor to acknowledge your note of January 5 last, calling my attention to the fact that the trade-mark treaty concluded between yourself and Mr. Frelinghuysen on February 14, 1885, had not yet been ratified by the United States Senate, and requesting that it might be brought to the attention of that body.

The treaty to which you refer was signed by my predecessor only a few days before he resigned the direction of this Department.

It was not transmitted by him to President Arthur, or by the President to the Senate of the United States for its consideration; and on assuming my present office it became necessary for me to consider whether I should do what had not been done by my predecessor, namely, advise the President to submit the treaty in question to the Senate with a recommendation for its approval.

It is unnecessary for me to recall to your attention the Federal legislation in this country in regard to trade-marks. As you are aware, the Congress of the United States passed an act, which was approved on March 3, 1881, "to authorize the registration of trade-marks and to protect the same." It was thereby enacted that owners of trade-marks used in commerce with foreign nations, provided such owner should be domiciled in the United States or located in any foreign country which by treaty, convention, or law afforded similar privileges to citizens of the United States, might obtain registration of such trade-marks by complying with certain preliminary requirements. This law was passed to take the place of certain sections of the law of July 8, 1870, which had been declared by the Supreme Court of the United States to be in some respects beyond the constitutional competence of the legislative power of the United States.

As I wrote to you on the 11th January of this year, the question of the precise extent of the authority of Congress to deal with the registration and protection of trade-marks, and the exact effect of the statutes enacted by that body, is by no means free from doubt. Similar doubts extend to the question of the power of the treaty-making branch of the Government to deal with the subject.

The Supreme Court of the United States, when the question was before it in 1879, took pains to state that it left untouched "the whole question of the treaty-making power of the General Government over trade-marks and the duty of Congress to pass any laws necessary to carry such treaties into effect." It has been the general expectation that there might be some further expression of opinion by that tribunal upon the subject which was thus left open by it in its former decision; but since 1879 the Supreme Court, so far as I am aware, has not been called upon to lay down any further rule upon this subject.

In the mean time, however, the question came before the Senate whether it should advise and consent to the adhesion of the United States to the Paris convention for the protection of industrial property. As you are aware, the Senate, after considerable hesitation, advised adhesion to that convention on the 2d of March, 1887. The accession of the United States to the union for the protection of industrial property was then announced by the minister resident and consul-general of the United States at Berne to the federal council of Switzerland on May 30, 1887, and the President issued his proclamation accordingly upon June 11 of same year.

The Patent Office, a branch of the Department of the Interior, which is charged with the registration of trade-marks, receives, as I am informed, applications from inhabitants of Switzerland without discrimination, and upon the same terms as from residents in the United States.

For your further information as to the practice of that Department, I inclose herewith * two copies of the laws and regulations concerning trade-marks, edition of November 1, 1886.

Upon a careful review of the federal legislation of the United States, as expressed in the act of March 3, 1881, and the provisions of the convention just referred to, I have been unable to perceive that there would be any advantage to citizens of the United States or of the Swiss Confederation in the ratification of the treaty of February 14, 1885, or in the conclusion of any similar engagement. The law of March 3, 1881, as already pointed out, provides for the registration and protection of trade marks used in foreign commerce or in commerce with the Indian tribes, whether the owners of such trade-marks are domiciled in the United States or in any foreign country or Indian tribe which by treaty or law affords similar protection to trade-marks of citizens of the United States.

Article 2 of the convention of March 20, 1883, provides that the subjects or citizens of each of the contracting states shall enjoy in all the other states of the union, for the protection of industrial property, the advantages the respective laws thereof accord to their own subjects or citizens, and that they shall have the same legal recourse for an infringement of their rights.

Whether these statutory and conventional provisions are in all respects within the constitutional competence of the Federal Government, is a question which, as I have already stated, has not been decided by the Supreme Court. But as they stand and are now applied, they are

* Inclosures not printed herewith.

unambiguous in their terms and are ample for the purpose for which they were devised. To enter, therefore, into a new engagement, such as is proposed in the convention now under consideration, might work a positive disadvantage by complicating the present situation with new questions as to federal power.

Therefore, as previously stated, after an attentive examination of the whole subject, and after awaiting some authoritative expression of opinion from the judicial branch of the Government upon the point which it had left untouched in its former decisions, the President has decided not to recommend to the Senate its advice and consent to the ratification of the treaty signed February 14, 1885.

Accept, etc.,

T. F. BAYARD.

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No. 1051.

*Mr. Rives to Mr. Kloss.*

DEPARTMENT OF STATE,
*Washington, June* 23, 1888.

SIR: I have the honor, in reply to Colonel Frey's note of the 31st of January last, inclosing a note dated 13th of January, addressed to the Secretary of State, by the President of the Swiss Confederation, on the subject of placing under one management the international bureau for the protection of industrial property and the bureau of literary and artistic works, to say that it is understood by this Government that in charging the Swiss Government with the administration of these bureaus, the details of their organization and management within the terms of the convention and final protocol were left entirely to the discretion of your Government.

There is no doubt that this trust will be discharged with due regard to the interests of all the members of the International Union, and since the President and Chancellor of the Swiss Confederation in their communication of January 13 declare that the step in question has been taken with a view to economical administration, this Government cordially approves it.

Accept, etc.,

G. L. RIVES,
*Acting Secretary.*

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No. 1052.

*Mr. Bayard to Mr. de Claparède.*

DEPARTMENT OF STATE,
*Washington, November* 28, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 27th instant, in which you convey the sad intelligence of the death of His Excellency President Hertenstein on the preceding day.

I instantly communicated by telegraph to the Chancellor of the Swiss Confederation the sorrow experienced by the people of the United States in the loss of the honored head of the Swiss Republic.

Accept, etc.,

T. F. BAYARD.

# TURKEY.

## No. 1053.

### *Mr. Bayard to Mr. Straus.*

No. 51.] DEPARTMENT OF STATE,
*Washington, October* 31, 1887.

SIR: I inclose for your information, and with a view to a report upon the subject, a copy of a dispatch from the consul at Jerusalem, No. 26, of the 28th ultimo, covering a copy of a communication from the governor of Palestine relative to the expulsion of Jews therefrom.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 51.]

### *Mr. Gillman to Mr. Porter.*

No. 26.] CONSULATE OF THE UNITED STATES,
*Jerusalem, September* 28, 1887.

SIR: I have the honor herewith to inclose copy, with translation, of a communication which I have received from his excellency Raouf Pasha, governor of Jerusalem and Palestine, relative to the expulsion from Palestine of Jews who are foreigners, in our case, of course, having reference to citizens of the United States who are Jews.

This has been followed by a notice through the police department of Jerusalem, given verbally, but of the same tenor.

It appears this decree (Iradeh) does not apply to all American citizens in Palestine who are Jews, but only to those who have recently come here.

Asking for your instructions in regard to this decree, that I may govern myself accordingly,

I am, etc.,

HENRY GILLMAN.

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[Inclosure 2 in No. 51.—Translation.]

### *Raouf Pasha to Mr. Gillman.*

MUTESSARIFLIK OF JERUSALEM.

SIR: It has been represented to me in a memorial from the police department that the consulates do not lend the necessary assistance to cause the foreign Jews (literally people of Moses) to return to their countries after the expiration of the temporary period assigned to them to perform their pilgrimage, viz: one month, in conformity to the decision of the Government based on a special iradeh prohibiting foreign Jews from coming to reside and settle in Palestine; that, as thereby this decree is infringed, the police ask that the necessary steps be taken at the different consulates to the end that on the expiration of the above-mentioned term the necessary facilities should be afforded by them, both here and on the embarkation at Jaffa, for the return of the

said Jews to their homes, and that the needful instructions on the subject be given to the various vice-consulates at Jaffa.

I have addressed communications to this effect to all consulates, as now to yourself, to which I request a reply.

I avail myself of the opportunity, etc.,

MOHAMMED RAOUF,
*Governor of Jerusalem.*

The 22' Zi El-Hidjah.
August 29 (September 10), 1887.

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## No. 1054.

### *Mr. Bayard to Mr. Straus.*

No. 53.] DEPARTMENT OF STATE,
*Washington, November* 2, 1887.

SIR: I take pleasure in inclosing for your information and for the files of your legation a copy of a letter from the secretary of the American Board of Commissioners for Foreign Missions, dated Boston, the 26th ultimo, expressing appreciation of your own and the Department's efforts in behalf of American missionaries in Turkey.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 53.]

*Rev. Dr. Clark to Mr. Bayard.*

BOSTON, *October* 26, 1887.

MY DEAR SIR: In behalf of the prudential committee and executive officers of the Board, I beg to express to you their high appreciation of your kindly offices in behalf of missionaries of the American Board in Turkey, as well as in Micronesia. Attention was called to this service at the annual meeting at Springfield. Reference is also made to the same in the Missionary Herald of November. I send you a half dozen copies, and beg to call your attention to what is said on page 426, 430, 432, 434 and 442.

Your instructions to Mr. Straus, the present minister of the United States in Turkey, were all that could be desired, and Mr. Straus has commended himself to the confidence and respect of the missionaries acquainted with him. It is quite unusual for us to receive such favors from the United States Government and they are on that account the more highly appreciated.

Yours, etc.,

N. G. CLARK,
*Secretary.*

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## No. 1055.

### *Mr. Straus to Mr. Bayard.*

No. 46.] LEGATION OF THE UNITED STATES,
*Constantinople, December* 5, 1887. (Received December 20.)

SIR: I have the honor to inclose a copy of a *note verbale*, received from the Porte, requesting me to instruct the consul-general to assist the competent authorities in entering the house of a certain Handjian, an American citizen, for the purpose of enabling them to seize certain

copies of a book on Mormonism, published without authorization. Under the provisions of paragraph No. 181 of the Personal Instructions, I felt empowered to render the assistance asked for, as will be seen from my dispatch to the consul-general, a copy of which I inclose. I likewise inclose a copy of Mr. Pringle's reply, in which he informs me that the pamphlets have all been surrendered to the Turkish authorities.

I have, etc.,

O. S. STRAUS.

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[Inclosure 1 in No. 46.]

*The ministry of foreign affairs to the legation of the United States.*

SUBLIME PORTE,
MINISTRY OF FOREIGN AFFAIRS,
*October* 29, 1887.

NOTE VERBALE.—At the request of the department of public instruction the ministry of foreign affairs begs the legation of the United States of America to kindly invite its consulate-general to lend its assistance to the competent authorities for the seizure of a work on Mormonism, published by Mr Handji, an American citizen, in a printing office opened without authority at Coulé-Capoussi, the copies of which have been deposited in the abode of the editor, situated at Coum-Capou, in the vicinity of the Armenian patriarchate.

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[Inclosure 2 in No. 46.]

*Mr. Straus to Mr. Pringle.*

No. 22.] UNITED STATES LEGATION,
*Constantinople, October* 31, 1887.

SIR: I herewith inclose a copy of a *note verbale* (October 29, 1887) received from the Sublime Porte, wherein, as you will observe, I am asked to invite you to aid the competent authorities so that they may enter the domicile of a certain Handji, an alleged American citizen, for the purpose of seizing a publication propagating Mormonism, and which was printed without authority.

I deem it my duty, in the interest of good order and morality and under the instructions issued by the State Department to its ministers abroad in respect to the polygamy of Mormonism, to authorize you to give your assistance, by virtue of the powers in you vested, to enable the competent authorities to enforce their laws in this matter, provided always that the facts are as stated in said *note verbale*.

I have, etc.,

O. S. STRAUS.

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[Inclosure 3 in No. 46.]

*Mr. Pringle to Mr. Straus.*

No. 59.] CONSULATE-GENERAL OF THE UNITED STATES,
*Constantinople, November* 30, 1887.

SIR: With reference to your No. 22, of October 31, 1887, inclosing copy of a *note verbale* from the Sublime Porte, I beg to inform you that I also received a letter from the minister of public instruction in which he repeated his request that I should lend my assistance to aid in seizing a pamphlet on Mormonism, published by an alleged American citizen.

I replied that I would lend all the assistance in my power consistent with my official duty. An inspector of public printing called upon me by direction of the minister, and I found that his idea was that I should arrest or seize the pamphlet. This I declined most peremptorily to do, and told him I was only authorized to assist

or be present in the carrying out of the Ottoman laws. I sent for the American, Mr. Hintze, who called upon me, and I soon found that he was quite willing to surrender the obnoxious pamphlets, as he denied all connection with the publishing of them. I beg here to call your attention to the fact that the printing without permission was the cause of the infringement of the law, and not the subject-matter of the pamphlets.

I have since been informed that the pamphlets have all been surrendered to the Turkish authorities, and I have heard nothing further of the matter.

I have, etc.,

D. LYNCH PRINGLE,
*Consul-General.*

P. S.—I beg to inclose copy of the pamphlet, printed without permission.

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## No. 1056.

### *Mr. Bayard to Mr. Straus.*

No. 58.] DEPARTMENT OF STATE,
*Washington, December* 7, 1887.

SIR: I inclose for your information a copy of a letter from Mr. John H. Flagg, representing certain exporting interests in the United States, dated the 1st instant, concerning a report that the Russian Government is endeavoring to obtain an exclusive concession at Cairo and other Egyptian ports for the erection of tankage for Russian petroleum.

I will thank you to make such investigation of the report as possible, and in case Mr. Flagg's representations shall be well founded, to take such action as you properly can for the protection of American interests.

An instruction in this sense has also been addressed to Mr. John Cardwell, the agent and consul-general of the United States at Cairo.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 58.]

### *Mr. Flagg to Mr. Bayard.*

WELLES BUILDING,
18 *Broadway, New York, December* 1, 1887.

SIR: Information has recently come to the exporters here of American petroleum to the effect that the consul-general of Russia at Cairo, Egypt, has received orders from his Government to secure if possible an exclusive concession at Cairo and other Egyptian ports for the erection of tankage for petroleum to parties in the interest of Russian oil.

If such concession should be granted it would prove a disastrous blow to American petroleum in Egypt, and it is doubtless intended to have precisely that effect. It is very much desired that you may instruct our consular officers at Cairo and Alexandria to be especially vigilant in regard to this *coup d'affaire* prompted by the Russian Government, and it is also extremely desirable that the United States shall make a prompt and earnest protest against the granting by the Turkish Government of exclusive commercial privileges, to the detriment of these American interests. The exports of American refined oil to Egypt for ten months ending November 1, 1887, were 3,743,950 gallons. It is the manifest purpose of persons manipulating Russian petroleum to place every obstacle in the way of our maintaining these exports and to grab a franchise which will virtually exclude us from the Egyptian markets.

Respectfully, yours,

JNO. H. FLAGG,
*Attorney for Standard Oil Company,*
*American Petroleum Export Association, and other exporters.*

No. 1057.

*Mr. Straus to Mr. Bayard.*

No. 47.] LEGATION OF THE UNITED STATES,
*Constantinople, December* 27, 1887. (Received January 16, 1888.)

SIR: I have the honor to transmit a copy (in translation) of proposed additional regulations concerning public instruction, which have been formulated by the Porte. They were about being submitted to the council of ministers to be enacted into a law, when I incidentally, on the 14th instant, learned of their existence, and I requested the Grand Vizier to submit them to me, so I might examine them. This was done. Upon my reading them I was very much surprised to learn that they were calculated to place insuperable obstacles in the way of every foreign school in this Empire.

I at once communicated the fact to my colleagues, Count de Montebello, the French embassador; Baron Blanc, the Italian embassador; and to the Right Hon. Sir William A. White, the British embassador, who I knew were likewise with myself interested in the subject. The same day I submitted these proposed additional regulations to the Rev. Dr. Isaac Bliss and Rev. Henry O. Dwight, the representative of the American Board of Commissioners for Foreign Missions in Western Turkey; they all took the same view as I did of these regulations.

The following morning I again called on the Grand Vizier and pointed out my objections in detail, informing his highness that I looked upon them as seriously and materially infringing upon the rights of American citizens in Turkey. He appeared to be impressed with the force and validity of these objections. I feel considerable confidence that these proposed regulations will not be enacted into a law; and this belief is shared by my colleagues, the embassadors above named, who, on the following day, protested in no less emphatic terms on behalf of their respective subjects, who likewise have mission and other schools.

The Grand Vizier, as well as the minister of foreign affairs, having since caused the proposed regulations to be transmitted to the embassadors named, requested them and me to forward to the Porte written observations. After consultation with the Rev. Dr. Bliss and Rev. Mr. Dwight, I prepared the inclosed memoranda of objections, which I transmitted on December 24 to the minister of foreign affairs. My colleagues are disposed to give me the credit for having thus far prevented the passage of these objectionable laws, which would have occasioned no little trouble to the foreign schools in this Empire. It is but just to them to say that their opposition has been no less earnest and effective than mine, and whatever credit the final result may warrant belongs equally to them.

I have, etc., O. S. STRAUS.

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[Inclosure 1 in No. 47.—Translation.]

*Provisions additional to the regulations concerning public instruction.*

Foreign subjects can not open private schools in the Empire except by submitting to the present regulations, and after having obtained an imperial firman, promulgated in pursuance of an iradeh of His Imperial Majesty the Sultan. To this end a petition must be presented to the ministry of public instruction at Constantinople and to the governors-general in the provinces, indicating whether the edifice of the school to be established is to be newly erected, or whether a building already existing will be transformed into a permanent or temporary school, and where the site of the school will be. This request will specify as well what will be the scholastic

grade of the school in relation to those mentioned in the regulations concerning public instruction, and whether the school will be a boarding school or a day school, and will specify the uniform of the pupils if they are to wear one.

It will be accompanied, besides the certificates of profession (états de service), by information relative to the internal organization of the school. A copy of the text-books and the programme of studies will be also presented in order to be approved. The ministry of public instruction or the provincial authorities will have to make inquiry whether the founders of the school, the administrative body, and the corps of instructors have been accused or condemned in their own country for acts contrary to the public order, or if they enjoy a good reputation.

Legalized copies of the certificates with which the professors are provided will be delivered to the ministry of public instruction or to the governor-general of the vilayet. The founders of the school will bind themselves by a document duly legalized by the consulate to which they belong not to raise any obstacle either to the right of inspection of the ministry of public instruction and of the governor-general or to the fulfillment of the legal duties resulting from the exercise of this right.

It is forbidden to admit to these schools pupils who are Ottoman subjects who, not having followed in their own schools the course of religious instruction, have not learned the dogmas of their own creed.

Mussulman pupils will not be present at the religious services celebrated in the chapel of the school, and no obstacle will be interposed to their performance of their religious duties. Instruction in the Turkish language, as well as in Ottoman history in the Turkish language, is obligatory in foreign schools.

There will be entire abstinence from religious instruction and from that which is contrary to the interests of the country and of the state and to the public morals.

No foreign subject can open a school before having obtained an imperial firman issued in pursuance of an imperial iradeh in conformity with the provisions above set forth.

If in schools opened in virtue of an official authorization there is not conformity to the present provisions; if there is in them instruction out of books other than those indicated in the programme approved by the ministry of public instruction or the governor-general, or if the founders, directors, or professors make verbally to the pupils suggestions adverse to the state or the country, or of a nature to favor the interests of a foreign power, the ministry of public instruction or the governor-general will require the administration of the school to conform to the regulations.

In case of repetition of the offense the school will be permanently closed.

All those who have given themselves to a reprehensible teaching or suggestion will in any case be sent from the school, and will be subject to the penalties provided by law. Ottoman subjects who may wish to open a private school will be equally required, besides fulfilling the conditions required by article 129 of the regulations concerning public instruction relative to the obtaining of a permit, to make known by a special declaration to the ministry at Constantinople or to the directors of public instruction in the provinces the site on which the school will be established, whether the school will be a boarding or day school, what will be the uniform of the pupils if they are to wear one, and what will be the scholastic grade of the school in relation to those already established: if foreign professors are to teach in the school, the founders will have to obtain the authorization of the above-mentioned ministry at Constantinople or of the governors-general in the provinces, presenting them with the professional certificates of these professors. Foreign subjects who shall teach in these schools will be subjected to an inquiry in the same manner as the professors of foreign schools.

The number of pupils who now attend private schools opened by virtue of an official authorization in conformity to the regulation concerning public instruction will be enrolled at Constantinople by the ministry and in the provinces by the directors of public instruction, and no obstacle will be interposed to their attendance at these schools until the completion of their studies.

Private schools already opened by foreign subjects without the official authorization demanded by the regulations concerning public instruction will be closed if in the space of six months they do not obtain an imperial firman by fulfilling the conditions fixed in the present provisions.

The 6th Sefer, 1305, and 12th October, 1303.

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[Inclosure 2 in No. 47.]

*Memoranda as to the proposed additional regulations concerning public instruction submitted by the minister of the United States to the imperial ministry of foreign affairs.*

It has been a source of just pride on the part of the Imperial Government of Turkey that it was among the first of the nations of the Old World to guaranty religious

liberty to the many different nationalities dwelling within the Empire, and this much-commended act has won the esteem of all enlightened people and the praises of the great powers of the world.

His Imperial Majesty the Sultan, in his constant solicitude for the welfare of his subjects and for the purpose of recording "his generous intentions towards the Christian population of his Empire," proclaimed in 1856 a full and complete charter of religious liberty, the Hatti-Humayoun, which, having been confirmed by the treaty of Paris of the same year, and its principles enlarged by the treaty of Berlin of 1878, stands to-day as a most solemn guaranty of rights and privileges for all sects and classes, secured by international compact.

It is not believed that the ministers of his imperial majesty would at this day deliberately and purposely contravene these solemn obligations and subvert institutions that rest upon prescriptions consecrated by ancient usages which have the force of law and upon treaty rights. That these proposed regulations would have such effect will be briefly pointed out, reference being made only to the more important provisions.

First. These regulations provide that no foreigner can open a private school without first obtaining an imperial firman.

A.—This provision from a practical stand-point is equivalent to prohibition, owing to the difficulties and delays which surround the effort to gain attention of his imperial majesty to such comparatively minor matters by reason, among others, of the large number of more important affairs which necessarily fall to the consideration of the chief ruler of so great an Empire.

B.—The provision is opposed to long established usages and to privileges that have been enjoyed and exercised by foreigners for many years, namely, the right to open and carry on schools at will, subject only to certain limitations which are specified in the Hatti-Humayoun, which provides: "Only the mode of instruction and the choice of teachers in this kind of schools shall be placed under the inspection and control of a mixed council of public instruction." In this connection I quote from "Considérations sur l'exécution du Firman Impérial du 8 Fevrier, 1856," by His Excellency Fuad Pasha, late minister of foreign affairs, addressed to the representatives of the Sublime Porte at London, Paris, Vienna, Berlin, St. Petersburg, and Florence.

"A l'égard des écoles créées et dirigées par les communautés, la liberté la plus absolue leur est laissée par le Gouvernement Impérial, qui n'intervient jamais que pour empêcher, le cas échéant, que la direction de ces écoles ne soit confiée à des personnes dont les principes seraient notoirement hostiles à l'autorité du Gouvernement Impérial ou contraires à l'ordre public."

Second. By the proposed regulations the right of foreigners to carry on schools in Turkey is made to depend on the condition that they bind themselves to submit to the right of inspection by certain Turkish officials and to "the legal duties resulting from the exercise of this right." The requirement is so vague and indefinite that it is subject to become the means to endless oppression, and to open the door for attacks upon the sacred rights of domicile, which, by this provision, a foreign teacher is required to surrender. That right is confirmed by international compact (the law and protocol concerning real estate), and it can not be lost by the waiver of an individual or its surrender imposed upon him as a condition to exercise a legitimate function.

Third. The proposed regulations also prohibit religious instruction in the schools of foreigners.

A.—This is distinctly opposed to well-established usage, to religious liberty as set forth in the Hatti-Humayoun, and to article 62 of the treaty of Berlin.

Upon this subject I quote from the protest made on behalf of the American Board of Missionaries for Western Turkey by one of its most distinguished and learned representatives, as fairly presenting the method and the principles upon which their schools are conducted:

"This provision is an unnecessary and oppressive restriction, whose inconsistency is at once seen on considering the fact that in all Christian schools in Turkey and in the whole Moslem system of education religious instruction is made the basis of scientific education. We do not believe in making instruction in the doctrines of our theology a part of the course of a scientific school, and we carefully refrain from whatever might wound the just religious susceptibilities of the pupils. But we believe with the wise man of old that 'the fear of the Lord is the beginning of wisdom,' and that love to the Creator is the foundation of all morality. Therefore we can not exclude elementary religious instruction from the schools which we conduct."

B.—The foregoing, taken in connection with the fact that no power exists to compel any one to attend these schools, and that such parents, be they Mussulman or Christian, who send their children to them, do so of their own free will, are the clearest proofs that such prohibition unjustly interferes with the proper functions of the schools, and instead of being in furtherance of religious liberty is in direct opposition thereto.

Fourth. The provision that all existing foreign schools will be closed if within six

months they have not obtained an Imperial firman authorizing their existence is opposed.

A.—To Hatti Humayoun Article XV, which says:

"Moreover each community is authorized to carry on schools of sciences, arts, and industry."

B.—That authority can not be now abridged by making such schools depend upon an Imperial firman. The delay in granting the same for whatever cause, for a longer period than six months, would work the abolition of every foreign school in the Empire.

While it is not charged that such is the object of the provision, yet that it is capable of such a construction is a sufficent objection to its conditions.

While thus protesting against these proposed regulations in their entirety, the minister of the United States will deem it his duty to meet the just wishes of the Imperial Government in regard to the supervision of the methods of instruction and of the teachers employed.

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## No. 1058.

### *Mr. Straus to Mr. Bayard.*

No. 49.] LEGATION OF THE UNITED STATES,
*Constantinople, December* 30, 1887. (Received January 25, 1888.)

SIR: I have the honor to make a report of the status of the closed schools of the American missionaries in Syria and in the vilayet of Adana. To the schools of the American missionaries I have found it necessary to devote much time, care, and study since my arrival at this post.

The dispatches of my predecessors, as well as the communications by the representatives of the missionaries, have heretofore frequently advised the Department of State that for the past few years the officials of the Empire have grown more and more jealous of foreign influence, and that this is constantly reflected in the tendency of the Government to restrict the privileges of missionaries and to hinder them in the continuance of their schools.

I have again and again brought to the attention of ministers of the Porte and the Grand Vizier the fact that the thirty schools in Syria which were closed by the authorities, mostly in the winter of 1885, should no longer be restrained from performing their functions pursuant to the understanding had between Mr. King, then chargé d'affaires *ad interim*, and the minister of public instruction, whereby it was agreed that the managers of said schools should submit to the local authorities for examination the programmes of studies, the text-books, and the certificates of the teachers, as reported by Mr. King, in his dispatch No. 276, of 11th January, 1887.

On the 19th July last I arrived at a definite understanding with the Grand Vizier, which resulted in his sending a telegram to the Vali of Syria, instructing him that no obstacles be placed in the way of these schools upon the managers complying with the conditions named; that it had been definitely arranged between him and myself that upon the managers complying with the requirements above set forth, these schools should be allowed to resume their functions.

To my surprise, I learned by the dispatch of Consul-General Pringle, No. 37, of September 9, that the managers of said schools had neglected to comply with such requirements because of certain alleged irregularities in the constitution of the examining board.

I inclose a copy of such portions of said dispatch as bear upon this question for your information.

Thereupon the consul-general instructed Consul Bissinger, at Beirut, to advise the managers to comply with the requirements and not stand on technicalities, which would serve only to obstruct, delay, and defeat the efforts of the legation in their behalf. From the last information received from Consul Bissinger on this subject, under date of 15th November last, a copy of which dispatch (No. 51) is inclosed, it will appear that the matter is in fair progress. The fact as stated by Mr. Bissinger, that all the teachers and pupils in the thirty closed schools are natives and Ottoman subjects, complicates the situation very much.

If my efforts and those of our consul, Mr. Bissinger, are properly supported by the managers of these schools, I have every hope that they will be permitted to re-open, as I have the definite and distinct promise of the Grand Vizier to that effect.

By a dispatch from Mr. Bissinger, of November 19, information is given that the authorities in the Vilayet of Adana have closed three schools (under the management of Dr. Metheny, the agent of the Board of Foreign Missions of the Reformed Presbyterian Church, located respectively in Tarsus, Mersine, and Adana) for the alleged reason of their not having been duly authorized, although it appears that Dr. Metheny had complied with all the conditions on his part. Upon receipt of this information I called upon the Grand Vizier and requested that these schools be allowed to be re-opened at once; that pending the question of the re-opening of the Syrian schools I considered this new encroachment a violation of the assurances he had given me.

He accordingly sent a telegram to the governor-general of Adana directing the re-opening of said schools and forbidding any interference by the local authorities with American schools. I instructed the consul-general, Mr. Pringle, to telegraph our consular agent, Dawson, at Mersine, advising him of the instructions given by the Porte to the governor-general.

I also directed the consul-general to advise by telegraph our consul at Beirut, instructing him to report by telegraph, to avoid delay, any threatened action against the schools. The consul-general received reply from Mr. Dawson dated Mersine, December 18, saying: "Vali has given necessary orders accordance with telegram." I have every confidence that this prompt check by the Porte given to the governor-general will bring about the immediate re-opening of these schools. I have found it of great utility to advise the use of the telegraph by our consuls in all such matters, thereby insuring prompt action.

In this connection I would suggest that, if it meet your approval, permission be given me in my discretion to go to Syria, to Adana, and to such other portions of the Empire as I may desire to visit, for the purpose of thoroughly studying the situation and of conferring with our consuls. I believe that a tour would have good results and would enable me better to understand the conditions I have to contend against.

I should expect to defray my own expenses.

I have, etc., O. S. STRAUS.

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[Inclosure 1 in No. 49.]

*Mr. Pringle to Mr. Straus.*

[Extract.]

No. 37.] CONSULATE-GENERAL OF THE UNITED STATES,
*Constantinople, September* 9, 1887.

SIR: I beg leave to inclose a copy of a dispatch received from Mr. Bissinger on the subject of the Syrian mission school question. It appears from the statement made

by Mr. Bissinger that up to the date of his writing the managers of the schools had not complied with the requirements of the school law, inasmuch as they had not submitted the text-books, programmes of studies, etc.

In a conference with the Rev. Mr. Dwight, who is thoroughly posted on the school question, he assured me that he saw no reason why the schools should not be opened, as those in Stamboul and Scutari are all in operation.

It is to be regretted that technicalities should be allowed to stand in the way of accomplishing the object in view. Mr. Bissinger has been informed by me that he has nothing to do with the formation of the academical board, as he only communicates directly upon this matter with the Vali. Were the question of the legality of the academical board to be brought up it would result in the schools remaining closed indefinitely, pending the discussion of the question. Mr. Bissinger refers also to a dispatch, No. 8, of May 14, to me, in which he advises that the school question be made an international one. I have informed him that, in my opinion, this would be a very disastrous issue for the schools, for reasons which I do not care to discuss with him.

I have, etc.,

D. LYNCH PRINGLE.

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[Inclosure 2 in No. 49.]

*Mr. Bissinger to Mr. Pringle.*

No. 51.] UNITED STATES CONSULATE,
*Beirut, November* 15, 1887.

SIR: In response to your No. 43 of the 2d instant, I have the honor to bring to your notice, for the information of the minister, that the formalities incumbent upon the American missionaries under the agreement between the United States legation and the Sublime Porte for the re-opening of their closed schools have, after many delays, just been observed, as per copy of letter from Rev. Dr. Henry H. Jessup, stated clerk of the Syria mission, in answer to one from me, herewith transmitted, marked inclosure No. 1 (with an answer).

It is deemed but just and proper that a reasonable time should be allowed the Turkish authorities within which to examine, first, the text-books in use in the mission schools; second, the programmes of studies; and, third, the diplomas or certificates of teachers just placed into the hands of his excellency the governor-general of Syria by the American missionaries, in compliance with a request from the consulate, dated August 11, 1887, a copy of which is herewith inclosed (inclosure No. 2), before issuing instructions to the responsible heads of the various missions to resume their laudable work in their suppressed schools. Simultaneously with this request to Dr. Henry H. Jessup, the stated clerk of the Syria mission (of the Presbyterian Board for Foreign Missions), identical instructions were also issued to Rev. Henry Easson, the responsible head of the schools of the Board of Foreign Missions of the Reformed Presbyterian Church of the United States of America, located in the Latakia consular district, and these have likewise recently been obeyed.

The precise status of all these mission schools forced to cease their functions has been presented to your honored predecessor in an elaborate statement accompanying dispatch No. 55, of September 4, 1886, to both of which you will permit me to invite your attention.

In this connection it occurs to me that it would perhaps be wise to have some understanding as to the steps or measures to be instituted by this consulate should the closed schools, after being re-opened without having secured the sanction of the local authorities, be prohibited again from pursuing their studies—an event not without the realm of possibilities, but one that is even quite probable.

My apprehensions of such a contingency are based upon the experience of the past and upon the well-known adverseness of the Turkish authorities to all foreign missionaries and their commendable work. The disinclination overtly shown in the past by all the local authorities to facilitate and promote the re-opening of our mission schools goes far to prove this, and the studied indifference which his excellency the governor-general of Syria has thought proper to exhibit towards two communications from this consulate, copies of which are herewith inclosed, marked respectively, inclosures 3 and 4, upon the subject of mission schools, by replying to the former in an evasive manner, and treating with absolute silence the other, might be cited in further support of what precedes—all the more conspicuous by the fact that his excellency the Vali has always manifested the most friendly spirit and disposition in all matters disconnected with religion or education, has shown a most commendable promptness in the expedition of all business communications from this office, and given many proofs of his warm and cordial friendship for the head of this consulate personally.

These two letters to the Vali, perused in connection with the numerous and exhaustive dispatches which it has been necessary to address you and your respected predecessor, will give a complete and comprehensive history of the school question and fully demonstrate that the dilatory proceedings of the Ottoman officials has occasioned the delay in placing the text-books, the diplomas, and the programmes of studies in the hands of the academical council.

I venture to give expression to my apprehensions, which are shared in and supported by those who have devoted a life-time to mission work in Turkey and whose opinions would therefore seem entitled to consideration, that unless specific orders are issued from Constantinople to the provincial governors to permit our closed schools to be reopened and allow those now peacefully following their vocation to enjoy perfect future immunity, no action is likely to be taken by the local authorities to restore to us the rights assured to us under the recent agreement with the minister of public instruction.

And here it is perhaps well to remember that at the time of the closing of the different mission schools many of the teachers were arrested and threatened with imprisonment should they ever be found teaching again, while parents were menaced with fine and imprisonment if they persisted in continuing to send their children to the American schools.

It will be observed by a glance over tables I to V inclusive of the statement transmitted with dispatch No. 55 of September 4, 1886, that all the teachers and pupils in the thirty closed schools are natives and Ottoman subjects, and should, therefore, the academical council procrastinate or finally entirely decline to sanction the diplomas or certificates of the teachers (those of the schools in the Latakia district have remained in possession of this council since last spring unnoticed), and the local authorities carry out the threats above referred to, it would make the re-opening of our schools and the successful continuance of our mission work practically impossible.

The question then naturally presents itself, how are the American missionaries to maintain their schools since they can not lawfully compel the attendance of children of Ottoman subjects, and if the buildings, the property of Ottoman subjects (see statement transmitted with dispatch No. 55), in which these children are taught, may be entered with perfect impunity for the purpose of arresting and harassing the teachers.

It will be readily conceded that this question presents difficulties involving grave responsibilities, which I did not deem judicious to assume without conferring with my superiors and soliciting from them such instructions for my future guidance as may be judged necessary before issuing instructions to the different mission boards for the re-opening of their closed schools with such strong probabilities in favor of their being immediately closed again, and thus inviting upon our Government and its representatives an embarrassing, complicated, and unenviable position, which it is greatly to be desired should be avoided.

I have thought it proper to go into the subject at some length to enable you and our honored minister to arrive at a just appreciation of all the difficulties surrounding the question, and it is hoped that nothing suggested or submitted in this or any of my previous dispatches upon this subject may be construed as an intention on my part to encroach upon the official prerogatives of my superiors. I am merely actuated by an earnest and sincere desire to discharge conscientiously what I conceive to be the obligations incumbent upon me in the maintenance of our rights and privileges and the advancement and promotion of American educational interests.

I am, etc.,

EBHARD BISSINGER.

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## No. 1059.

### *Mr. Straus to Mr. Bayard.*

No. 52.] LEGATION OF THE UNITED STATES,
*Constantinople, January* 5, 1888. (Received January 25.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 58 of December 7, 1887, with inclosure, concerning a report that the Russian Government is endeavoring to obtain an exclusive concession at Cairo and other Egyptian ports for the erection of tanks for petroleum. The result of the inquiries made at the Porte by Mr. Gargiulo, the dragoman of the legation, is that the Porte knows of no such proposed

concession; and that, should the Egyptian Government intend giving such a concession, it is extremely doubtful whether the Porte's authority would be asked.

The minister of foreign affairs stated that if I would address a note to the Porte, he would make it the basis of a communication to the Egyptian Government.

I have accordingly sent a *note verbale* to the Porte, of which the inclosed is a copy.

I have, etc.,

O. S. STRAUS.

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[Inclosure in No. 52.]

*The legation of the United States to the Ministry of foreign affairs.*

*Constantinople, January* 4, 1887.

The legation of the United States has the honor to bring to the notice of the imperial ministry of foreign affairs that information has reached the Department of State that efforts are being made on the part of the Russian Government to obtain exclusive concession at Cairo and other ports in Egypt for the erection of tanks for the storage of petroleum. The Department of State has instructed the minister of the United States respectfully to represent to the Imperial Government that as petroleum is one of the chief products of export of the United States, the granting of such an exclusive privilege would interfere with that export, and with the business of American citizens in Egypt and in Turkey, who are engaged in the importation and sale of American petroleum.

Such information upon this subject as the imperial ministry of foreign affairs may have the kindness to communicate to this legation would be thankfully received, so that a report may be made to the Department of State.

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## No. 1060.

### *Mr. Straus to Mr. Bayard.*

No. 56.] LEGATION OF THE UNITED STATES,
*Constantinople, January* 17, 1888. (Received February 7.)

SIR: In response to your instruction No. 60, of December 17, 1887, with inclosures, in respect to archæological explorations in the western and southern shores of Asia Minor and Crete, I have the honor to report as follows: This matter has received my careful attention both officially and unofficially. From my conversation with the minister of foreign affairs and with the minister of public instruction, I learn that up to some fifteen years ago permission was freely accorded by the Imperial Government to make explorations in any part of the Empire. This privilege was so abused, especially by persons who did not engage in the work for scientific purposes, but mostly with a mercenary object, that about fifteen years ago a law was passed restricting this privilege in many respects, and providing for a division of the articles discovered between the owner of the land, the Imperial Government, and the explorer. This arrangement was found to be very impracticable, and at the same time detrimental to the science of archæology, and resulted frequently in breaking continuous links, as it were, illustrative of a definite period.

Thereupon some eight years since a law was passed annulling these former privileges and prohibiting the exportation of archæological an-

tiquities. The Imperial Government has since undertaken, on its own account, to make explorations and discoveries. It has appropriated, and is appropriating, considerable sums of money for this purpose, under the supervision of the ministry of instruction and Hamdy Bey, the director of the Imperial Museum at Stamboul, a very competent scientist, who has personal charge of the explorations. I had a long interview on yesterday with Hamdy Bey for the purpose of fully informing myself on the subject, with the view of learning if there might not be a way found which would facilitate the objects outlined in your instruction. The researches and discoveries of Hamdy Bey, especially those made by him recently at Sidon, which have been partially described in the publications of archæological societies in different countries, especially in France, are doubtless known to scientists in America.

Hamdy Bey corroborated the foregoing statements concerning the law and the reasons therefor, and informed me that he would do everything in his power to aid any American society whose objects are purely scientific; that under the law he has been permitted to exercise a certain discretion, which is limited to allowing to foreign societies to take such articles as are not desired by the Imperial Museum. This usually applies to duplicates only. The law above referred to, which provides that the entire discovery becomes the property of the Imperial Government, but which permits explorations to be made in the interest of science, requires that the person or society must specify the precise spot where the explorations are to be made, such specifications to be accompanied by a topographical map limited to an area not exceeding 10 square kilometers.

It is quite possible that if a representative of the society should come here and confer with Hamdy Bey, perhaps a better arrangement might be made than could be predicated under the provisions of the law. That, however, would largely depend upon the disposition Hamdy Bey might be induced or feel himself authorized to make.

I would further add that Hamdy Bey stated that if the object of the society in question be purely scientific, and should it be willing to expend money in making archæological discoveries, he would be inclined not only to favor its scheme, but even to give it the benefit of his experience and of certain traces discovered by him, but which he has not been able to pursue. He specially mentioned certain Hittite remains, always with the understanding that the antiquities discovered shall be the property of the Imperial Government.

I have, etc.,

O. S. STRAUS.

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No. 1061.

*Mr. Bayard to Mr. Straus.*

No. 67.] DEPARTMENT OF STATE,
*Washington, January* 28, 1888.

SIR: I have received your exceedingly interesting dispatch No. 49, of the 30th ultimo, touching the missionary schools in Syria and the vilayet of Adana, and desire to commend your course regarding these important matters. The Department coincides with you that a tour in those districts would enable you to better understand the conditions

against which you are constantly required to contend, and for that reason permission is hereby granted, to be exercised within your discretion, to visit Syria, Adana, and such other portions of the Turkish Empire to which you may find it necessary to go, for the purpose of thoroughly studying the situation and of conferring with our consular representatives upon the subject.

In anticipation of a further interesting report in the near future,

I am, etc.,

T. F. BAYARD.

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No. 1062.

*Mr. Straus to Mr. Bayard.*

No. 57.] LEGATION OF THE UNITED STATES,
*Constantinople, January* 28, 1888. (Received February 20.)

SIR: In answer to your instruction No. 51, of October 31, 1887, I have the honor to report:

Shortly after the receipt of your instruction, I called at the Porte and had an interview with the Grand Vizier on the subject in question. He informed me that a regulation had been communicated by the Porte to the Imperial authorities at Jerusalem to limit the stay of foreign Jews at Jerusalem to the period of one month. At a second interview he further informed me that the council of ministers was about amending the regulation so as to make the period three months. He gave as a reason for such a regulation, that the spirit of religious fanaticism rose to such a high pitch at Jerusalem that at certain seasons of the year, during Easter, the Jews were compelled to remain within their houses to avoid coming in contact with the Christians, who would attack them and perhaps murder them.

The purpose of the regulation was to avoid the possibility of such conflicts.

Another reason was also given by the Grand Vizier as the cause of this regulation, namely, the report that had spread abroad that the Jews throughout the world intended to strengthen themselves in and around Jerusalem with a view, at some future time, of re-establishing their ancient kingdom there.

I explained as to the first contingency, that it could be avoided by a strong force of police. As to the second, the re-establishment of a Jewish kingdom, I informed his highness that if the Porte would make inquiry it could easily satisfy itself that no such purpose actuated the Jews throughout the world. I informed him also that so far as concerned American citizens, naturalized or native, it is one of the fundamental principles of my Government to make no distinction as to its citizens based upon creed or race, and that, uniformly in its relation with foreign nations, it had emphatically denied their right to make such discriminations against American citizens. I quoted to him several passages from your correspondence and instructions bearing upon this principle, and referred to the ancient capitulations and the provisions of our treaty with the Ottoman Empire.

His Highness assured me should the authorities threaten to expel any American citizen he would give due weight to the foregoing considerations and give instructions accordingly.

Shortly thereafter the Right Honorable Sir William A. White, the British embassador, asked me what position my Government had taken

in reference to discriminations made against its citizens who were of the Jewish faith. He said that he desired to know in view of several cases before him arising under the aforesaid regulation of the Porte. He stated that the foregoing principles fully coincided with his own sense of duty and convictions, and that he would be guided accordingly.

About the same time I sent a dispatch to our consul-general here requesting him to instruct our consul at Jerusalem, Henry Gillman, esq., to make report whether any American citizens had been expelled or were threatened with expulsion; also to report such other facts relative to the subject as he might deem important. A copy of his dispatch in reply of December 31, 1887, I herewith inclose.

I have, etc.,

O. S. STRAUS.

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[Inclosure in No. 57.]

*Mr. Gillman to Mr. Straus.*

No. 1.] UNITED STATES CONSULATE,
*Jerusalem, December* 31, 1887.

SIR: I have the honor to acknowledge the receipt of copy of your No. 33, to Mr. Pringle, dated the 16th instant, and forwarded to me from the consulate-general with a dispatch dated the 19th instant.

In compliance with your request desiring information as to the expulsion of Jews from Jerusalem, I beg to make the following statement:

Though Jews belonging to other nationalities have been expelled from Jerusalem and Palestine, no American citizen has been expelled during my connection with this consulate. In all communications with the local authorities I have invariably and decidedly held the position that I could in no wise consent, much less render aid to expel from Palestine citizens of the United States who are Jews; that a fundamental principle of our Government was involved, which positively forbids any discrimination made for or against American citizens on account of their race or religion.

In this connection, I herewith inclose copy with translation of a communication received from his excellency Raouf Pasha, governor of Jerusalem and Palestine, dated September 10 last, a copy of which was transmitted by me to the Department of State at Washington, with my dispatch No. 26, dated September 28, 1887. This was followed by a verbal message from the governor informing me that of the ten consuls in Jerusalem I was the only one who had not assented and promised to render aid in carrying out this decree (iradeh) regarding the expulsion of the Jews. To this I simply affirmed my former declaration, informing the governor that I had made the matter the subject of a special dispatch to our Government and awaited the decision.

As my dispatch to the Department (No. 26, above referred to) inclosing the copy of the governor's letter was, as usual, transmitted through the consulate-general, I did not consider it necessary to otherwise inform Mr. Pringle regarding the matter, especially as the local Turkish authorities were tacitly consenting to await the decision of our Department of State, and their relations with me, both personally and as the representative of our Government, have always been of the most friendly and conciliatory character.

I may add that when the verbal message of the governor was delivered to me the chancellor of the British consulate was present in this consulate, and expressed his surprise at my friendship for the Jews. When I took the occasion to ask him what the action of the British consulate was in such cases, he replied they invariably rendered the required aid to the Ottoman authorities in carrying out the decree, as did the other consulates.

It has since come to my knowledge, however, that quite lately an order from his Government to the British consul forbids such aid being any longer rendered.

It is unnecessary that I should allude to the attitude of the Russian, German, and other Governments toward the Jews, as it is doubtless well known to you. About two years ago, I understand, a ship-load of Russian Jews was not permitted to be landed at Jaffa, but ordered to be returned whence it came; thus entailing great misery on the unfortunate people, who had been driven from their homes, many of them in poverty. Their condition was described to me as pitiable in the extreme, some of them being almost naked and without food, and suffering from sickness in consequence.

One peculiar phase of the case is that large numbers of the resident Jews share in this dislike to the coming here of more Jews. This is explained by the fact that it tends to the increase in price of all articles of living, adds little or nothing to the wealth of the city, and reduces the proportion of the charitable aid sent here by their wealthy co-religionists from abroad.

You will at once perceive, therefore, that the position I have taken, and that I am obliged to take, is a thankless one, exposing me on one side to the disapproval of the Ottoman Government, and on the other to the animosity of many of the resident Jews, not to take into the account the feeling on the subject entertained by the representatives of the various foreign governments.

In conclusion, and for a proper understanding of this decree, or iradeh, it may be well that I should state, it does not seem to apply to all American citizens in Palestine who are Jews, but only to those who have recently come here.

I am, etc.,

HENRY GILLMAN.

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## No. 1063.

### *Mr. Bayard to Mr. Straus.*

No. 70.] DEPARTMENT OF STATE,
*Washington, February* 3, 1888.

SIR: I have received your No. 47, of December 27 last, in which you report the steps taken by you with regard to the additional regulations concerning public instructions which had been drawn up for presentation to the council with a view to enactment.

Your vigilance and your intelligent and energetic action in behalf of American educational establishments and interests in the Ottoman Porte is highly appreciated by this Department and will cause additional and wide-spread satisfaction throughout the United States.

That your action should have led the way for the representatives of other powers to join with you in preventing unfavorable action by the Turkish Government is a further source of satisfaction.

By this prompt and concerted action in prevention of the proposed charges, it is hoped that they will be arrested.

I shall be glad to have you report fully your progress in these transactions and the result of your useful labors.

I am, etc.,

T. F. BAYARD.

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## No. 1064.

### *Mr. Straus to Mr. Bayard.*

No. 61.] LEGATION OF THE UNITED STATES,
*Constantinople, February* 18, 1888. (Received March 5.)

SIR: Referring to my dispatch No. 49, of December 30, 1887, I have the honor to report that the four closed schools (instead of three, as originally reported to me) of the Board of Foreign Missions of the Reformed Presbyterian Church in Tarsus, Mersine, and Adana, have been re-opened pursuant to the instructions given by the Grand Vizier, and are in full operation.

I have, etc.,

O. S. STRAUS.

No. 1065.

*Mr. Bayard to Mr. Straus.*

No. 74.] DEPARTMENT OF STATE,
*Washington, February* 21, 1888.

SIR: I have received your dispatch No. 57, of the 28th ultimo, relative to the prohibition against foreign Jews settling in Jerusalem, and desire to approve your reported action in respect of American citizens of that faith residing there as discreet and proper.

I am, etc., T. F. BAYARD.

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No. 1066.

*Mr. Straus to Mr. Bayard.*

No. 63.] LEGATION OF THE UNITED STATES,
*Constantinople, February* 24, 1888. (Received March 12.)

SIR: The American missionaries and managers of schools in this Empire have for many years enjoyed certain customs immunities which are specified in Van Dyck's "Report on the Capitulations of the Ottoman Empire," page 113 *et seq.*

These are based upon the French capitulations of 1740.

From time to time for some years past the administration of customs has restricted these immunities more and more, so that at the present time all foreign schools and benevolent institutions, our own included, have been compelled to pay duty on many classes of articles which were formerly exempt, and have in general been subject to frequent annoyance and delays. The matter at my suggestion, and under the direction of the diplomatic agents of the several powers therein interested, was referred to a meeting of the dragomans of the several embassies and legations, our own included, and they formulated a *note verbale* in French to the Porte setting forth their grievances; and I, after consultation with the representatives of the American missionaries, forwarded to the Porte a *note verbale*, of which the inclosed is a copy, which is substantially the same as has been forwarded by several of the embassies, except such slight modifications as I deemed it prudent to make.

Trusting that the action taken will meet your approval,

I have, etc.,

O. S. STRAUS.

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[Inclosure in No. 63.]

*The legation of the United States to the ministr of foreign affairs.*

UNITED STATES LEGATION,
*Constantinople, February* 21, 1888.

The legation of the United States has the honor to call the attention of the imperial ministry of foreign affairs to the arbitrary proceedings of the general direction of customs towards convents and benevolent institutions to which it refuses the benefit of certain provisions of the regulation concerning the customs immunities to religious orders.

For some time past this administration has claimed customs dues on all goods which, though notoriously intended for the maintenance of *religieux* and *religieuses*, but which are not explicitly specified in the regulation in question.

Paragraph 2 of Article II, while it provides that "the goods necessary to the maintenance of the *religieux* and *religieuses* are the following: Clothing, food, ink and paper," yet these words are immediately followed by a phrase the object of which is to extend them so as to remove from this provision of the regulation what may be too restrictive. This phrase is as follows: "And generally all that which pertains to the exercise of monastic life."

It is the same with paragraphs 1, 2, 3, 4, 5, and 6 of Article III, where all the specific enumeration of the goods intended for the maintenance of seminaries, hospitals, the poor, the dispensaries, the orphans, etc., are likewise extended by an analogous general provision. The custom-house refuses, however, to conform to these express provisions of the regulation; it refuses to give effect to the articles coming under that head and obliges the American religious societies to pay the customs dues thereon, although they ought not to be paid.

The customs franchise being the principal and the most important of the privileges granted *ab antiquo* to the several communities of the Empire, the intention of the Imperial Government at the time when the aforesaid regulations were made was to limit the amount of the franchise to be given annually to each religious representative, and not to restrict that franchise to certain specified goods in such an exclusive sense.

In fact it is in that spirit that the regulation has been enforced since its promulgation.

The legation of the United States hopes that the Imperial ministry will in its high sense of equity recognize that the foregoing considerations are well founded and will specifically invite the general administration of the customs to apply hereafter in all its provisions the regulation in question in the same manner as it has done during almost a quarter of a century.

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## No. 1067.

### *Mr. Straus to Mr. Bayard.*

No. 64.] LEGATION OF THE UNITED STATES,
*Constantinople, February* 27, 1888. (Received March 19.)

SIR: The vice-consul-general has forwarded to me a copy of a dispatch, No. 38, from Mr. Gillman, our consul at Jerusalem, to the State Department, in relation to a suit at Jerusalem between a Turkish subject and the cavass of the consulate, involving the dwelling-house wherein the said cavass resided with his family and from which he was evicted.

Having occasion to call upon the Grand Vizier on the 25th instant in relation to other matters, I brought this complaint of Consul Gillman to his attention and he appeared to be of the opinion that such cavass was entitled to the same privileges as to domicile as are accorded to an American citizen, and he immediately communicated with the governor of Jerusalem asking for explanation for the course pursued.

I trust by the time your instructions will have arrived the matter will have been brought in this unofficial way to a satisfactory solution, and that my action thus far will meet your approval.

I have, etc., O. S. STRAUS.

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## No. 1068.

### *Mr. Straus to Mr. Bayard.*

No. 65.] LEGATION OF THE UNITED STATES,
*Constantinople, February* 27, 1888. (Received March 19.)

SIR: Referring to dispatch* No. 406 of July 3, 1884, from Mr. Heap, charge d'affaires *ad interim* to the State Department, in reference to the

* Printed as inclosure 2 in No. 65.

new passport regulations, the requirements of which are therein set forth, I have the honor to report:

This matter together with others of an administrative nature, and affecting all foreigners alike, was referred to a meeting of the dragomans of the respective missions, including our own, for consideration under the supervision and direction of their chiefs.

They formulated a *note verbale* in French to the Porte pointing out the objections to the enforcement of such regulations. I accordingly, on the 23d instant, transmitted a *note verbale* to the Porte, of which the inclosed is a copy, which is a translation of the one formulated in French, which has also been transmitted by several if not all of the other missions.

Trusting that my action in the matter will meet your approval,

I have, etc.,

O. S. STRAUS.

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[Inclosure 1 in No. 65.]

*The legation of the United States to the ministry of foreign affairs.*

UNITED STATES LEGATION,
*Constantinople, February 23,* 1888.

The Sublime Porte communicated to the legation of the United States the new regulation on passports of the 9th of February, 1884. This regulation, it must be admitted, establishes a compact of restrictive measures, the application of which in regard to foreigners would be of such a nature as to interfere with the rights acquired by them by virtue of the treaties in force and would create numerous difficulties without any practical benefit.

The last paragraph of article 11 stipulates thus:

If there is a diplomatic or consular representative of the Imperial Government to be found on his way, the bearer is bound to have his passports visaed by him.

This disposition applied in all its vigor would oblige foreigners to forced delays on their way, in cases where in the country they came from there should not exist an Ottoman diplomatic or consular mission. It would give occasion also to abuses, as it would be impossible to claim from the subordinate police agents an exact knowledge of the places where representatives of the Ottoman Government are to be found.

Article 12 interdicts the frontier of the empire to all foreigners traveling without a passport or with an irregular one, and article 17 provides even penalties of extreme rigor in such cases. The Sublime Porte will agree, in its equity, that these two articles constituting a derogation of the capitulations, their enforcement would be on all points impossible.

The same objections may be raised with regard to article 15. As to article 14, by virtue of which foreigners arriving in Turkey are bound to declare how long they expect to sojourn, and to furnish themselves with a permit of sojourn, this tends to nothing less than to destroy the state of things existing in favor of foreigners in conformity to international compacts. In fact, by virtue of the capitulations and the treaties of commerce, foreigners can freely come to Turkey, travel in it, and occupy themselves with commerce without any kind of hindrance. Under these premises to subject them to the hard conditions which precede, is creating for them altogether new obligations, which, far from having the character of supervision, constitute in reality a hindrance to the free circulation of foreigners.

Still, even in view of the right of reciprocity, as similar regulations do not exist in the United States, the legation of the United States can not acquiesce in the enforcement of this measure to the prejudice of its citizens.

Finally, as regards article 18, it would be necessary, in order to avoid the numerous difficulties which would result from its enforcement, to point out precisely the case of *force majeure* which allows the landing of passengers and merchandise.

Such are, briefly stated, the reasons for which the legation of the United States regrets not to be able to accept the regulation in question, in its actual form and tenor; it has consequently the honor to request the imperial ministry of foreign affairs to give the necessary instructions for the suspension of the enforcement of the regulation of passports until an understanding intervenes on this subject between the legation of the United States and the Sublime Porte.

[Inclosure 2 in No. 65.]

*Mr. Heap to Mr. Frelinghuysen.*

LEGATION OF THE UNITED STATES,
*Constantinople, July* 3, 1884.

SIR: I received yesterday a circular, "verbal note," from the ministry of foreign affairs informing this legation that the Porte has decided to postpone the application of the new passport regulations to the 15th (27th) of this month, in order that they may become generally known.

As several American travelers arriving in Turkish ports have been put to much inconvenience and annoyance in consequence of their ignorance of these regulations, I will state their principal prescriptions as far as they concern persons arriving in Turkey.

Foreigners arriving in Turkey will not be allowed to cross the frontier by land or to disembark at a Turkish port unless they are provided with a passport bearing the *visa* of the Ottoman ambassador or consul at the place of departure. If at the place of departure there is no Ottoman representative the *visa* will be dispensed with, but the traveler must obtain it at the first place through which he passes on his way where an Ottoman consulate exists. Travelers are bound to present their passports, on demand, to the authorities demanding them, either at the land frontier or at the point of arrival.

Foreigners arriving in Turkey must, within six months from the date of their arrival, present their passports to the Ottoman authorities and obtain a permit of sojourn in the Ottoman dominions.

Foreign subjects whose papers are not in order are liable to expulsion from Ottoman territory; but an exception will be made in favor of those who, arriving without passports or whose passports are not in order, present themselves forthwith to the Ottoman authorities and justify the irregularity by producing a guaranty from their consulate.

These are the principal points in the new regulations, of which Americans visiting Turkey will do well to take note.

I am, etc..

G. H. HEAP,
*Chargé d'Affaires ad interim.*

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## No. 1069.

*Mr. Straus to Mr. Bayard.*

No. 66.] LEGATION OF THE UNITED STATES,
*Constantinople, February* 28, 1888. (Received March 19.)

SIR: I inclose for your consideration a copy of a letter from Mr. J. L. Barton, and a copy of my reply, touching the question of protection to American citizens recently naturalized on returning to the country of their origin.

I have, etc., O. S. STRAUS.

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[Inclosure 1 in No. 66.]

*Mr. Barton to Mr. Straus.*

HARPOOT, TURKEY, *January* 26, 1888.

SIR: From this city and its immediate vicinity some six hundred Turkish subjects, Armenians by race, are now in the United States. I was told to-day that sixty more will set out for the same land in a few days.

Some of these people have now been in the United States for four or five years. I am almost daily asked if these Armenians return as American citizens will they be protected in their rights as such.

I confess ignorance upon this point and now write for information. Has the United States a special treaty with Turkey concerning this point? If so, what is the nature of said treaty?

If no such treaty exists, I take it for granted that proper protection will be given,

The thought of the people is to thus better their condition. They hope to escape in this way some of the oppressive taxations of this Government.

I would be pleased if you would recommend to me some work that explains the various treaty relations of this Government with the United States and also with other nations.

Yours, etc.,

J. L. BARTON.

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[Inclosure 2 in No. 66.]

*Mr. Straus to Mr. Barton.*

UNITED STATES LEGATION,
*Constantinople, February* 25, 1888.

SIR: Your communication of the 26th January has been received. You state that from Harpoot and vicinity some six hundred Turkish subjects, Armenians by race, are now in the United States and that more are about to emigrate. You further state that the thought of the people is thus to better their condition; they hope to escape in this way some of the oppressive taxation of this (Ottoman) Government. You ask to what extent these people will on their return to this Empire be protected by our Government in their rights as American citizens?

This is a question I can not assume authoritatively to answer and it had better be addressed to the Department of State. It is impossible to assume what the Government would authorize to be done in a hypothetical case. That must depend up n the specific circumstances attending each case as it arises.

For your information let me state we have no treaty of naturalization with the Ottoman Empire. Negotiations for one have been pending since 1874. In 1869 the Ottoman Government enacted a law providing that no Ottoman subject shall be permitted to divest himself of his nationality unless by and with the previous authorization of his Government. (Législation Ottomane, Vol. I, p. 7.)

A number of cases have arisen during the past few years of taxes imposed upon Ottoman subjects naturalized in America since 1869 and returning to this Empire. These taxes in many instances were paid to escape imprisonment, usually under protest. That is the status of this question at the present time. The international questions raised by this and similar laws, in the absence of a treaty of naturalization, are in my opinion not free from serious doubt and perplexities, upon which the precedents and the laws of nations vary.

So long as these citizens remain in America or in any foreign country, excepting the country of origin, they have the same rights as native citizens, provided they have not abandonded their citizenship.

But when they return to their country of origin, by reason of the circumstances stated above, there arise conflicts as to rights and obligations, which it is to be hoped will be definitely settled by a treaty of naturalization at some future time.

In 1873 several important questions affecting naturalized citizens were submitted for opinion by the President (Grant) to the several members of the Cabinet (Foreign Relations of 1873, Vol. II).

The Attorney-General, in his opinion, says: "Naturalization effected in the United States without an intent to reside permanently therein, but with a view of residing in another country and using such naturalization to evade duties and responsibilities that would otherwise attach to the naturalized person, ought to be treated by the Government of the United States as fraudulent and as imposing upon it no obligation to protect such person; and as to this the Executive must judge from all the circumstances of the case."

While I regard this as an extreme view, it nevertheless may tend to give you some light upon the subject of inquiry.

I have, etc.,

O. S. STRAUS.

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## No. 1070.

*Mr. Bayard to Mr. Straus.*

No. 78.] DEPARTMENT OF STATE,
*Washington, March* 5, 1888.

SIR: I transmit herewith for your information copy of a note* addressed to me by Mavreveni Bey on the 2d instant, and of my reply,*

* See Docs. Nos. 1104 [illegible], *post*, p. 1627.

both having relation to the treatment of foreign Jews resorting to Palestine.

These notes continue, and importantly enlighten, the subject to which my instruction No. 51, of 31st of October, 1887, and your report No. 57, of 28th January last, had reference.

It appears from Mavroyeni Bey's statement that the regulation of which the Grand Vizier spoke to you, amendatory of the previous iradeh and extending the term of permitted sojourn of foreign Jews in Palestine to three months (instead of one month, as reported in Consul Gillman's No. 26, of September 28, 1887), is coupled with a most obnoxious condition, by prescribing that such alien Israelites shall only be permitted to enter Palestine when bearing passports setting forth "that they are going to Jerusalem in the performance of a pilgrimage, and not for the purpose of engaging in commerce or taking up their residence there;" which passports, so drawn up (*ainsi libellés*) are to be visaed by the consuls of Turkey. A further *permis de séjour* is also prescribed to be issued by the Imperial authorities, and although not so stated explicitly, it is inferred that the permission in question is only granted on production of the passport itself; the declarations of which the *permis de séjour* is stated to repeat.

It is regarded as strange that so important a condition as this should not have been communicated to you by his excellency. Had it been brought to your notice, it is conceived that you would have considerably amplified and emphasized your declaration to the Grand Vizier, that it is one of the fundamental principles of your Government to make no distinction as to its citizens based upon "creed or race," and that you would have made instant and earnest protest against a requirement which would not only involve a declaration by this Government, expressed or inferential, in its formal passports, of the creed of the citizens to whom they are issued, but would further infringe the laws and practice in the matter whereby this Department and its agents are governed, and which preclude giving to citizens of the United States preparing to go abroad any certificate as to their purpose in so going.

To require of applicants for passports, which under our laws are issued to all citizens upon the sole evidence of their citizenship, any announcement of their religious faith or declaration of their personal motives in seeking such passports, would be utterly repugnant to the spirit of our institutions and to the intent of the solemn proscription forever by the Constitution of any religious test as a qualification of the relations of the citizen to the Government, and would, moreover, assume an inquisitorial function in respect of the personal affairs of the individual, which this Government can not exert for its own purposes, and could still less assume to exercise with the object of aiding a foreign Government in the enforcement of an objectionable and arbitrary discrimination against certain of our citizens.

Our adherence to these principles has been unwavering since the foundation of our Government, and you will be at no loss to cite pertinent examples of our consistent defense of religious liberty, which, as I said in my note to Baron Schaeffer of May 18, 1885, in relation to the Keiley episode at Vienna, "is the chief corner-stone of the American system of Government, and provisions for its security are embedded in the written charter and interwoven in the moral fabric of its laws."

In case a copy of the Keiley correspondence should not be on file in your legation, I inclose the printed document herewith for your convenience.

It may be well for you to ascertain as discreetly as may be the views

of your colleagues in respect of this remarkable requirement of the iradeh in question, of which you should also endeavor to secure a copy for examination; but under any circumstances the impossibility of this Government's acceding to any such requirement should be distinctly made known to the Government of the Sublime Porte.

I am, etc.,

T. F. BAYARD.

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No. 1071.

*Mr. Bayard to Mr. Straus.*

No. 81.] EPARTMENT OF STATE,
*Washington, March* 13, 1888.

SIR: I have received your No. 63, of the 24th ultimo, touching the customs immunities for foreign missionaries and others in Turkey, and desire to say that until the iradeh of 1864 (see Van Dyck's report on the Ottoman capitulations, pp. 113–117), is formally amended by a new iradeh of equal force, you do well to remonstrate against any attempt to diminish its application to our seminaries, hospitals, dispensaries, schools, and asylums by a constrictive process of interpretation.

I have pleasure, therefore, in approving your *note verbale* to the Government of Turkey upon the subject.

I am, etc.,

T. F. BAYARD.

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No. 1072

*Mr. Bayard to Mr. Straus.*

[Extract.]

No. 84.] DEPARTMENT OF STATE,
*Washington, March* 17, 1888.

SIR: I transmit herewith, for your examination, a copy of a dispatch (No. 38) of 2d February last, lately received from the United States consul at Jerusalem, touching the eviction of the consular guard at Jerusalem.

The particular question presented by Mr. Gillman raises the point of the extent of the extraterritorial privileges accruing to the native guards employed in the foreign consulates in Turkey.

It appears that Assad Kassas, a Turkish subject, is employed as a guard in the consulate at Jerusalem, but for how long a time is not stated. Proceedings have been had in the local courts involving the possession of the house which Kassas claims to have inherited from his mother and in which he has resided with his family for many years. Whether Kassas has appeared in the case heretofore is not stated, neither is it known here if his employment as consular guard originated after the institution of the suit to gain possession of the premises he occupied; but it is inferred that in virtue of his supposed immunity as a foreign guard he has paid no attention to the summons of the court, as it appears that he ignored the final decree dispossessing him. As long ago as October 21, 1886, and during the pendency of the suit, Mr.

Gillman was requested to cause Kassas to vacate the house and refused to do so. On January 15 last Kassas was forcibly evicted. Of this act the consul complained, and the governor of Jerusalem in reply takes the ground that, as this is a real-estate case, "it is not one for consular interference," and that Kassas either should have appealed the case or vacated the premises.

It does not appear that the proceedings against Kassas in any way invaded the rights of the consulate or prevented the performance of his duties as guard. The case seems to have been entirely outside of Kassas' relations to the consulate, and to concern only his status as the owner or claimant of real property under the laws of the Empire.

Citizens of the United States owning real property in Turkey are, under the real-estate protocol of 11th of August, 1874, as proclaimed by the President October 29, 1874, and in accordance with the terms of Article II of the imperial rescript of September 7, 1284 (June 10, 1867), placed upon terms of equality with Ottoman subjects "in all things that concern their landed property," and are expressly excluded from availing "themselves of their personal nationality except under the reserve of the immunities attached to their persons and their movable goods according to the treaties." (U. S. Stats., vol. 18, part 3, p. 853.)

The eleventh article of the *règlement* of 23 Sefer, 1280 (August 9, 1863), relative to foreign consulates, is, as stated in the explanatory circular to governors-general, intended to prevent the employés of consulates from receiving other or greater protection outside of their actual official duties in connection with the consulate than any other protégés or than foreigners. (Van Dyck's Capitulations, pt. 1, p. 98.)

The Government of the United States has never been disposed to claim excessive or unusual immunities for natives employed in any capacity in its legations and consulates abroad. When the effect of such employment is to withdraw subjects of the country from their natural jurisdiction, we are disposed to regard the rights of persons so protected as a matter of customary law. On December 23, 1867, Mr. Seward instructed Mr. Morris, your predecessor at Constantinople, that—

> The system of employing Turkish subjects in subordinate capacities, although sometimes necessary, is an encroachment upon international law as maintained between civilized states, and is unknown in our statutory legislation;

and added that the Government of the United States would not, except in strong cases, interfere for the protection of the persons so employed. (Int. Law Digest, vol. 1, p. 641.)

Mr. Fish, November 29, 1874, instructed Mr. Jay, at Vienna, that—

> The tendency of opinion in regard to immunities of diplomatic agents is believed to be strongly toward restricting them to whatever may be indispensable to enable the agents to discharge their duties with convenience and safety (Int. Law Digest, vol. 1, p. 642)—

and no broader criterion than this could well be claimed as applicable to a servant of a consulate more than to the servant of a diplomatic agent. In several recent instances where the foreign servant of a legation has been claimed to be liable to military duty—as at Madrid in 1874, and at Berlin in 1879 (see Foreign Relations 1879, pp. 374 *et seq.*)—the ground of complaint has been that the service of the mission was interfered with by the abrupt action of the authorities in enforcing the alleged liability of the employé, rather than that any right of a legation to withdraw a native of the country from his national subjection had been infringed.

And in this aspect of the question it might be desirable to ascertain whether the action to dispossess Kassas was instituted and pending at the time of his entrance into the service of the consulate.

The customary usage of Turkey in regard to the withdrawal of Ottoman subjects by foreign service from their national jurisdiction, as set forth in the consular *règlement* of 1863, appears to be in harmony with the foregoing principles. Article I prescribes the number of privileged native Turkish subjects to be so employed, the number of yassakdjis (cavasses, janissaries, or guards) allowed at a consulate being three, with privilege of increase of the number by mutual understanding.

ART. I. Consuls are to give notice of the appointment of yassakdjis to the Vali, or governor-general of the province, and obtain his recognition. (Art. 4.)

The protection of privileged employés is defined as "individual and attached to their functions." The service of yassakdjis counts for five years as army service, and they can not be withdrawn from the consular service for active or reserve military duty. Privileged employés shall enjoy all the immunities accorded by the capitulations, but their estates shall pay the land tax. (Art. 5.)

The privilege lasts only during "effective actual service," and the protégés are shielded from all prosecution, having origin in the services which the consulate may have received from them. They are not to pay, during their protection, any but real-estate tax, or those burdens to which foreigners are subjected. (Art. 11.) Native servants of consuls, not of the enumerated privileged classes, have no right to protection, but even these are not to be proceeded against or arrested save with timely notice to the consul. (Art. 12. See Van Dyck's Capitulations, pt. 1, p. 96.)

Under all the circumstances, so far as known here, I would not feel justified in instructing Mr. Gillman that real estate held by Ottoman subjects is taken out of Turkish jurisdiction when they become yassakdjis or guards in consulates. But as the case is novel, and as the precise question presented does not appear to have been raised in any other instance, it is deemed advisable to refer the subject to you with instructions to ascertain and report the position of the Ottoman Government in this regard; it is also desirable to learn what privileges of this class are conceded to other Frankish powers. Article 50 of the French capitulations of 1740 appears to be in point. It provides that—

For the security of the dwellings of the consuls, permission is granted to appoint the janissaries solicited by them, and these janissaries shall be protected by the odtobachies and other commandants.

So, too, with article 28 of the English capitulations of 1675, which provides that the embassadors and consuls may take into their service any janissary or interpreter they please.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 84.]

*Mr. Gillman to Mr. Rives.*

No. 38.] CONSULATE OF THE UNITED STATES,
*Jerusalem, February 2, 1888.*

SIR: I have the honor to report that on Sunday, the 15th ultimo, in the enforcement of a decree of the Turkish court, involving the possession of the house in which Assad Kassas, a Turkish subject, and one of the guards of this consulate, has for many years resided with his wife and children, and which property was inherited by his mother,

now deceased, the local authorities have proceeded to eject him, breaking in the doors and removing his wife, children, and furniture, the said Kassas not being present.

No official notice was given this consulate as to the execution of the decree, nor of the decision of the court, though previous to the rendering of the decision I was requested (October 21, 1886) to cause the said Kassas to vacate the house, which I refused to do.

The consular guard, presuming on his position and the usage which has hitherto prevailed touching consular employés, did not suppose extreme measures would be used, and did not vacate the house, with the result before mentioned.

On my representing the facts to the governor of Jerusalem he has taken the position that as this is a real-estate case it is not one for consular interference. On further representations he very politely expressed his regret, but adhered to his former opinion, stating that the guard either should have appealed the case or vacated the premises.

I have not been over-officious in pushing the matter, for the following reasons:

(1) The local authorities have hitherto evinced a most friendly and conciliatory spirit in dealing with this consulate.

(2) It being a case having for its object a question of real estate, it is excepted from the restrictions governing other cases.

The question is, Did the local authorities exceed their powers in carrying out the decree without the intervention of the consulate, or its official notification of the decision of the Turkish court, and the execution of the decree?

So far as I can learn the case is without precedent as regards this consulate, or any other of the foreign consulates in Jerusalem.

In this connection it may be important that I should state the opinion is gradually beginning to prevail, among natives as well as foreigners, that, lately, the Ottoman Government is evincing a more exacting spirit. In proof various cases are cited.

One of the guards of the Greek consulate at Jerusalem was recently (the latter part of January, 1888) arrested by the Turkish authorities for enlistment in the army, and is still held by them, regardless of his consul's protest, though the guard had served the consulate for eight years. The local authorities at Damascus have recently arrested an Algerian who is under French protection, a descendant of the suite of Abd-el Kader, who settled at Damascus after the conquest of Algeria by France. This has aroused the French Government, and it is understood a severe examination into the incident has been ordered by the Sultan. The Ottoman authorities, for some time past, have been attempting to claim as Ottoman subjects not only the descendants of the suite of Abd-el Kader, but also the descendants of British Mahomedan subjects who have settled at Damascus claiming them as liable to military service.

A short time ago a British Moslem is reported to have been taken by the Ottoman authorities and enlisted in the army, notwithstanding the protest of the British consul. Though the man was eventually allowed to escape, the Turkish authorities never waived their pretension that he was liable to military duty.

A missionary of the Church of England, residing near Jerusalem, an English subject, was last summer in danger of imprisonment, through false witnesses, and was about to be surrendered by the British consul, when, at the remonstrance of the English-speaking residents, addressed to Lord Salisbury, the Premier of England interfered, by telegraph, ordering the missionary not to be given up.

As I have already informed the Department in my dispatch No. 26, the restrictions against the Jews, expelling them, are again being enforced, the order of the Government being imperative. The governor recently informed me that of the ten consuls in Jerusalem I alone did not give my consent and aid to this expulsion. I stood firmly to the point that it is the fundamental principle of our Government to recognize in American citizens no distinction as to race or religion, and that I could not consent, much less render the aid requested. Since (quite lately), I understand Lord Salisbury has telegraphed the British consul here that he must not continue to render aid to the Turkish Government in expelling English Jews, and further, that he must resist their expulsion.

The governor of Jaffa a few weeks ago personally entered, accompanied by soldiers, the lecture room of the Rev. J. L. Hall, Church of England missionary, and after arresting some Moslems who were present, broke up the meeting and closed the room.

A native Christian employed by the Church Missionary Society to sell Bibles among the peasants in the neighborhood of Jerusalem, had the books taken from him by the police, and by authority of the governor was, two months ago, thrown into prison (on the accusation of teaching Moslems), where he still lies.

The passport regulations are being enforced with extreme severity. Travelers are obliged to procure local passports, and those whose passports are not visaed by a Turkish consul in the country they came from are fined.

Physicians, druggists, and dispensers of medicine are prohibited, by order issued last summer, from practicing their callings without a diploma obtained by passing

an examination at Constantinople. This order caused such an expostulation as to compel the Government to modify it.

Examples might be multiplied; but the foregoing will probably be considered sufficient.

I am, &c.

HENRY GILLMAN,
*Consul*

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No. 1073.

*Mr. Bayard to Mr. Straus.*

No. 85.] DEPARTMENT OF STATE,
*Washington, March* 20, 1888.

SIR: I have received your No. 64, of the 27th ultimo, relative to the eviction of the cavass at the consulate of Jerusalem from his residence. You state that you informally brought the complaint to the Grand Vizier, "who appeared to be of the opinion that such cavass was entitled to the same privileges as to domicile as are accorded to an American citizen; and he immediately communicated with the governor of Jerusalem, asking for explanation for the course pursued."

Your reported action is entirely in the line of, and anticipating, the Department's instruction No. 84, of the 17th instant, which directed you to ascertain the customary privilege in the premises, and is therefore approved.

Awaiting a further report upon the subject,

I am, etc.,

T. F. BAYARD.

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No. 1074.

*Mr. Bayard to Mr. Straus.*

No. 88.] DEPARTMENT OF STATE,
*Washington, March* 23, 1888.

SIR: Mr. Gillman, our consul at Jerusalem, in his No. 40, of February 10 ultimo, reports to the Department the harsh application in Palestine of the recently promulgated passport regulations of the Turkish Empire, and his representations to the governor that American citizens should, in comity, be granted some degree of exception from such requirements in view of the absence of any passport regulations in respect of Turkish subjects visiting the United States.

It appears that Mr. Gillman's dispatch has been brought to your attention through the consulate-general at Constantinople.

I have caused to be sent to Mr. Gillman copy of Department's instruction to you, No. 14, of May 10, 1887, on the general subject of the new passport regulations, and now transmit to you a copy of Mr. Gillman's dispatch referred to, and the Department's reply thereto, in order that you may be fully advised should Mr. Gillman, in pursuance of his instructions, bring any well-founded case of hardship or denial to your notice.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 88.]

*Mr. Gillman to Mr. Rives.*

No. 40.] CONSULATE OF THE UNITED STATES,
*Jerusalem, February* 10, 1888.

SIR: I have the honor to report that the local authorities in Jerusalem and Palestine recently have begun to enforce the passport regulations with severity. All travelers, including Americans, are obliged to provide themselves with a tiskarah, or local passport; and those having passports from their Governments which have not the visa of a Turkish minister or consul are fined, as are those who are unprovided with passports.

This state of things has prevailed since October, 1886, in Syria (the consulate of Beirut); but in this consulate (including Palestine) we have had no trouble from this cause till since January, 1888.

My representations to the governor of Palestine only have resulted in his assurances of his inability to mitigate the evil complained of. On my assuring him that a Turk might travel from one end to the other of the United States without receiving hinderances, or being once asked to show a passport, he was greatly impressed, and suggested that proper representations be made by our legation at Constantinople, so that American travelers should be made an exception to the stringent rules now enforced, or, at least, such Americans as are provided with the passport of their Government.

To this end I have laid the matter before the consulate-general, requesting that it be brought before the legation at Constantinople.

I am, etc.,

HENRY GILLMAN.

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[Inclosure 2 in No. 88.]

*Mr. Rives to Mr. Gillman.*

No. 23.] DEPARTMENT OF STATE,
*Washington, March* 23, 1888.

SIR: I have received your dispatch No. 40 of the 10th ultimo, touching the severity of the Turkish passport regulations as recently enforced within your jurisdiction, and reporting your suggestions to the governor of Palestine as to making American citizens an exception to the rule on the ground of reciprocity, no passport regulations being enforced in the United States in respect of Turkish subjects coming to or sojourning in this country.

Your reference of the matter to the legation at Constantinople through the consul-general is approved.

The question of the Turkish passport regulations had previously been considered by this Department, and I transmit for your information copy of an instruction sent to Minister Straus on the 14th of May, 1887 (No. 14), which covers most of the subject of your complaint.

The regulations, while not in themselves objectionable in principle, may be enforced in particular cases to work hardship, especially if recourse to the local consular representatives for protection and for proof of American citizenship should be denied, owing to the failure of any citizen to provide himself with the prescribed "teskereh." Should the issuance of such a document be refused on due application, supported by proper proof, you will report the case to the legation through the consulate-general, accompanied by the papers necessary to an understanding of the case, beside reporting it in the usual manner to this Department.

I am, etc.,

G. L. RIVES,
*Assistant Secretary.*

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## No. 1075.

*Mr. Straus to Mr. Bayard.*

No. 68.] LEGATION OF THE UNITED STATES,
*Constantinople, April* 5, 1888. (Received April 23.)

SIR: A *note verbale* has been received from the Porte in regard to the protection given to H. A. Proios by the consul of the United States

in Odessa, Russia. The Porte asserts that said Proios is a Turkish subject; that he was employed here in some official position, and after stealing a sum of money and falsifying the books escaped to Russia. He has there been arrested, and was about to be sent to Constantinople when the consul of the United States at Odessa intervened because said Proios had a passport from this legation. On examining the books I found that a passport was issued to him July 30, 1887, in place of an old passport, No. 15,046, from the State Department, dated September 8, 1871, signed by Mr. Hamilton Fish. The signature of Mr. Fish is genuine, though the passport is filled out in a writing that does not look as if it was done at the State Department. This old passport bears on the corner the stamp of a "United States passport agent, 41 Chambers street, New York," but the name of the agent is illegible.

As Mr. Proios may be sent here for trial, I desire to have the facts which you may have on record, or can obtain in New York, as to his naturalization and citizenship.

I am, etc.,

O. S. STRAUS,
By PENDLETON KING,
*Secretary of Legation.*

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## No. 1076.

### *Mr. Bayard to Mr. Straus.*

No. 92.] DEPARTMENT OF STATE,
*Washington, April* 14, 1888.

SIR: I inclose for your information a copy of a dispatch from Mr. H. M. Jewett, United States consul at Sivas, No. 33, of March 10, 1888, concerning the attitude of the Turkish provincial authorities toward American mission schools.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 92.]

### *Mr. Jewett to Mr. Rives.*

[Extract.]

No. 33.] UNITED STATES CONSULATE,
*Sivas, Asia Minor, March* 10, 1888.

SIR: As the only American citizens in Asia Minor are missionaries, and as there have been contradictory reports in American newspapers regarding their treatment by Turkish authorities, I have thought that a report on the attitude of the Turkish provincial authorities toward American missionaries and the educational institutions under their charge might be of interest to the Department. I accordingly addressed a circular letter to the principal missionary stations in Asia Minor, asking replies to the following questions, viz:

(1) Has there been any improvement the last year or two in the relations between the missionaries at your station and the Turkish authorities?

(2) Have there been any cases of persecution of Protestant converts on the part of the authorities or with their connivance?

(3) What, if any, obstacles have been interposed to the establishment of new schools or the erection of new school buildings?

(4) Have there been during the past year any cases of interference with schools already established?

(5) What is the general attitude [illegible] officials of your district toward American missionaries and their scho[illegible] otherwise?

(6) In your opinion is the attitude of the Ottoman Government becoming more friendly and tolerant toward American missionaries and their work, or is the contrary the case?

I have received replies from nearly all addressed and submit them herewith.

It appears from these several reports from the different sections of Asia Minor that, generally speaking, there is—

(1) No discrimination against American Protestant missionaries or their schools, but that they are treated the same as are the several native Christian sects, such as the Armenians, Greeks, etc.

(2) That the attitude of the Ottoman Government toward them is neither friendly nor hostile, but indifferent.

(3) That there is no persecution on account of religion.

(4) That American schools are not interfered with, and the only difficulties they encounter are in relation to books and printing.

(5) That the attitude of local provincial officials toward American schools is rather friendly than otherwise.

(6) That there has been no material change in the attitude of the General Government toward American schools and missionaries of late years, though the opposite statement has of late been widely circulated in American newspapers, but that the missions in the interior have less trouble with the authorities than those nearer the influence of the central government.

There has been a marvelous change in the treatment of Armenian and other Christian people by the Turks in the last thirty to forty years. The degree of the change can best be shown by a comparison of the religious and political equality with Moslems which they now enjoy and the terms in which they were formerly addressed when there was occasion for official action, as in the granting of burial and marriage licenses. The usual form of burial permit granted an Armenian under the old régime contained substantially these expressions, viz: "Although it is not to be endured that this infidel dog should be buried with respect, yet, as his carcass would pollute the air if unburied, it is hereby permitted his vile associates to cast it into a ditch and cover it with earth that it breed not a pestilence." The marriage licenses were even more offensive. They recited in effect, that although the parties named were unworthy of being allowed to contract honorable marriage, being unbelieving dogs, yet, as they were full of lust and liable to offend the community with lascivious crimes if not allowed to marry, marriage was permitted them.

Such things no longer exist. The Armenian is now under law entitled to, and in general is accorded, the same respect as a Moslem.

The statement widely circulated in American newspapers, especially in the religious press, that the new laws recently proposed by the Sublime Porte for the regulation of foreign schools were especially aimed at Christianity as taught in the American missionary schools, because, as a writer in the New York Independent puts it, the Turks "see in the Gospel a serious menace to Islam," is, I believe, incorrect. The proposed laws, if adopted, will be aimed not against Christian schools as such but against the foreign influences which they typify. The Turks fear the influence of European and American political ideas. They have no special reason to fear European or American religion. Protestant and Catholic have been laboring in Turkey for half a century and more, but the conversions from Islam to Christianity have been practically none. Indeed, judging from the accounts in the Turkish papers, it would appear doubtful whether the number of conversions to Protestantism from the Armenian and other nominally Christian sects exceeds the number of conversions from those sects to Islam.

It is evident, therefore, that the Mussulmans have no cause to fear American or other schools so far as relates to their tendency to change Moslems into Christians. The meaning of such measures as those referred to must be sought elsewhere and will, I think, be found, as already suggested, in the jealousy of foreign influences politically, and not religiously.

I have, etc.,

H. M. JEWETT,
*Consul.*

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[Inclosure 2 in No. 92.]

*Mr. Trowbridge to Mr. Jewett.*

AINTAB, NORTHERN SYRIA, *December* 29, 1887.

SIR: Your letter of December 6 reached me by the mail of last week. Your main inquiry relates to "the attitude of the Turkish Government towards Americans and

the institutions under their charge." You also request answers to certain specific questions bearing on this general subject.

In regard to the general subject, I am, of course, quite aware that it has been not uncommon for Americans residing in Turkey to complain of the treatment they have received from Turkish officials, and I know also that there has been sometimes delay in bringing to justice those who have been guilty of trespassing on the rights or privileges of American citizens. I know also that during the past twenty-five years several American citizens have been killed in Turkey; that others have been robbed and molested when traveling in the country. I know also that complaints have been made in regard to the closing of schools, the shutting up of churches, and of hindrances having been put in the way of building churches and schools and dwelling-houses for American citizens. I should say in general that I think we should always bear in mind the circumstances in which officers of the Government are placed. The country is uncivilized; the people are ignorant and not accustomed to a prompt execution of such imperfect laws as they have; the Government is poor and quite unable to furnish such a police as will preserve order in a wide extent of territory. In these circumstances it seems to me rather unreasonable to expect that the officers of the Turkish Government will be able to maintain as complete order as we are accustomed to see in America. If Americans, for their own purposes as merchants or as missionaries or as travelers, wish to visit this country, ought they not to be willing to bear some degree of vexation and trial?

I have had an experience with Turkish officials extending over about thirty years, and I cheerfully acknowledge that personally they have always treated me with marked politeness, and have been ready to listen to my requests and to comply with them when possible. In some cases local officials have found it impossible to carry out our wishes in consequence of special orders, of organic laws, or the regulations of the custom-house. Thus, for example, at the present time, we find that many valuable books are taken from our boxes at Alexandretta and never reach us. So also in regard to a small American press, which we have in the American college with which I am connected. We are quite ready to comply with the law and to submit whatever we wish to print to such officers of the Government as shall be appointed, but in some way our efforts have entirely failed to get permission to use this press. These are hindrances, however, which we hope to overcome; I certainly can not interpret them as evidences of special hostility toward us as Americans.

In regard to the particular questions which you ask, I answer:

(1) The relations between the missionaries at this station and the Turkish authorities have long been frank, cordial, and without bitterness. We take pains not to trespass on their authority and they seem glad to accommodate us in any way possible. I can not say there has been special "improvement" in these relations, because we have had no grounds of complaint and have made no complaints for some years.

(2) There have been no "cases of persecution of Protestant converts" on the part of the authorities nor with their connivance for many years.

(3) In one or two cases there has been some objection to the erection of new school buildings, as in the instance of the girls' seminary here, but the objections were based wholly on the ground that a regular firman for the erection of the building had not been obtained when the building was begun.

(4) "Have schools already established been interfered with by the authorities?" Answer. There has been no instance of that kind in this station.

(5) "The general attitude of the local authorities" in this station towards American missionaries has been friendly; towards our schools rather that of indifference than of hostility. There is no "hostility."

(6) In my opinion "the attitude of the Ottoman Government toward American missionaries and their work" is about the same as in past years. I see no special reason to think that any important change has occurred. I know well that reports have gone forth that the Turkish Government has assumed toward the missionaries a distinctly hostile attitude. I can only say that the evidence in support of such a proposition has not fallen under my observation. Such evidence may exist elsewhere, but I have not seen it. There are many things that should be reformed and changed no doubt, but when I am asked whether Americans as such are obnoxious to the Government, I must say that I do not know of any evidence to support such a proposition; there is much evidence to the contrary. A special pressure of work at this close of the year prevents my going into the subject more fully at this time. What I have written has been prepared in haste and may not meet the case as your letter presents it, but I have tried to give an impartial and truthful answer to your questions.

Yours, most truly,

TILLMAN C. TROWBRIDGE.

[Inclosure 3 in No. 92.]

*Mr. Chambers to Mr. Jewett.*

ERZROOM, *February* 15, 1888.

SIR: Your favor of December 6, 1887, was duly received. I regret the delay in acknowledgment, but owing to the sickness and death of our little boy, besides regular work, I could not find opportunity to answer. I will answer your questions in the order asked.

(1) There has been a slight improvement of relation between the missionaries of this station and the Turkish authorities. This is due to two causes: First, a more cordial feeling socially established through the cultivation of the acquaintance of one or two new military officials; and second, by a change made by which the Mearif Mudeer was changed and a more cultured and liberal man came into the office. I doubt, however, if these "more cordial relations" would indicate any "more cordial" feelings towards our work. A change in officers might take place to-morrow and make things worse than before.

(2) There was a very bitter persecution of a Turk who became a Christian. The persecution continued two years and ceased about a year ago. This man was betrayed and arrested on an absurdly false charge. The case against him could not be sustained, but he was retained under arrest and subjected to rigid examinations concerning his faith. Every effort was made to make him recant; imprisoned in the "inner prison," which was very filthy and bad; threatened with divorce from his wife and confiscation of his property, and was even sent into exile. The Protestant pastor of his village was called and cross-examined concerning this Turk's becoming a Christian. It was perfectly evident that this man was subjected to all this because of his religion. Even the officials confessed, though it was all done on various false charges made against him, not one of which had anything to do with religion—no; I am slightly wrong in that statement. The first time he was arrested was at the time of taking the census, three years, and the issuing of the 40 para "Nufus Teskerehs" to each individual. Hussein registered himself as a Christian, and the census-taker immediately put him under arrest. Friends interceded, and the next day he was released. The rest of the persecutions were carried on under the cover of false charges, such as stealing a Government rifle fifteen years ago, harboring a thief in his house, declaring himself an English subject when all he meant to say was that he was Protestant, the term English being used sometimes for Protestants, as Frank is for Catholics.

Two years ago a number of arrests of colporteurs were made and some of these subjected to considerable annoyance; but this has not occurred within a year and a half.

(3 and 4) Our schools have not been interfered with. For this city we have permits for the schools, and nothing has been done about the schools in the districts, though we have asked the officials if we should apply for permits for them. His reply was, "It is not necessary now." We have not put up any new buildings and so have not tested that point, though we have no hope that permits would be granted. Most of our buildings are registered as houses.

(5) The attitude of the local authorities towards American missionaries personally is on the whole friendly, but towards schools a sort of "armed neutrality," with at present a slight tendency towards friendliness, owing to the personal character of the official of public instruction.

(6) In my opinion the Turkish official is becoming more and more intolerant towards Christians of every description, and this includes American missionaries and their work. I have not the slightest doubt that if Turkey could take back her "capitulations" to-day, she would drive every missionary, both Protestant and Catholic, out of the country and subject the Christians to very great hardships. Though there are a great many well-informed Turks who would be quite liberal if they could and many more who are infidels, yet as far as I can see the trend seems to be now to a greater and bigoted intolerance. The fact is this educational activity has not been without its influence on the Turkish mind. Schools have been established amongst them giving opportunity for very considerable information and training. They are thoroughly Turkish and are in the interests of the Mohammedan religion entirely.

Hoping you will find what you want in these questions, I remain, etc.,

W. U. CHAMBERS.

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[Inclosure 4 in No. 92.]

*Mr. Parmelee to Mr. Jewett.*

TREBIZOND, *January* 11, 1888.

SIR: Returning from a somewhat prolonged visit to Orda, I found your letter of December 6 awaiting me.

Taking up your questions seriatim I will answer them briefly as follows:

(1) I can not say that I have any reason to complain of the treatment I have received from the Government; therefore there is no occasion to look for improvement. The missionary work in this city is such a small work, and the presence of an American among so many foreigners as reside in this city attracts so little attention that our operations pass nearly unnoticed.

(2) We have had no converts from Islamism which would incline the Government to act as persecutor. Some four or five years ago the Greek community here opened a violent persecution on two or three Greeks who had espoused evangelical doctrines. The Vali Pasha then in office here took high and commendable ground in favor of religious liberty, punished many of the perpetrators of outrages, and furnished a guard for the persecuted men and also to the chapel as long as the disturbance continued. The action of the Government at that time was perfectly satisfactory.

(3) As in answering the first question, so here I can only say that we are doing so little as to attract little attention. We have no high school, aside from that under the direction of the native community, and there has been no occasion to test the temper of the authorities as to the erection of churches and school buildings, or the establishment of new schools. It is true the old schools have been revived and new ones have been organized during the past five years, but not in the name or under the direction of an American, though an American has been behind them all.

(4) No.

(5) Strictly speaking, there are no American schools in my district. Towards the schools in which we are interested and which we assist, the Government has manifested no hostility; its attitude is generally that of indifference, though I think in case of opposition the Government would protect them in the enjoyment of their rights. The Government would do this, however, much more readily for a native community than for an American.

(6) Government regulations are much more strict and annoying than formerly. For instance, we can not travel now without a traveling *teskereh* or permit, a thing formerly unknown. We can not put up a building of any kind without first asking permission of the Government, and we are obliged to pay taxes on our buildings now. Our greatest annoyance, however, is in connection with books. If, after once passing the censorship at Constantinople, our books could move freely about the country we would be quite content. But this is far from the case. At every turn made by our colporteurs their books are arrested and subjected to examination, every petty officer assuming the authority to delay or confiscate any book that he chooses. Colportage is greatly hindered, in some cases altogether interrupted. I do not say that this extra vigilance as to the circulation of books is a blow aimed at Americans in particular. I do not think it is. It is due, in part at least, to certain movements among the Armenians aimed towards waking up their national life. Perhaps we, as Americans, ought not to complain of rules that are of general application, and which do not aim hostilely at Americans.

I do not think I need to trouble you further. I hear a good deal about the Government's closing schools, etc., in other places. I have no ground of complaint so far as my field is concerned. The same toleration which we enjoy is also enjoyed by Catholic propagandists. In this city there are two schools conducted by monks that are foreigners, and the schools are supported almost wholly by foreign funds and are under French protection. If such schools as these are tolerated, with much greater propriety should any of our operations, so utterly free as they are from political coloring, be permitted.

Yours, very truly,

M. P. PARMELEE.

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[Inclosure 5 in No. 92.]

*Mr. Tracy to Mr. Jewett.*

MARSOVAN, *January* 6, 1888.

SIR: Some days ago a communication from you to Mr. Herrick was handed to me as pertaining more especially to my department, the main responsibility of affairs in the college having devolved upon me as director. I will reply to your questions in order:

(1) I may say that as far as the local authorities are concerned there is an improvement from year to year in our relations with the Government at this place.

(2) In other parts of the field under the care of this station there has been and is persecution. There is a violent manifestation of it now at Alacham, not far from Bafra, on the coast, where the Government at the instigation of the Greek hierarchy is treating Protestantism with great injustice, fining and imprisoning on the merest pretenses.

(3) There has been within a year or two no such case of interference with old or new schools as is proper to report.

(4) At Marsovan the attitude of the Government for a year or two has been rather friendly towards us, but it is not so in all parts of the field. Also there seems to be a great difference between the attitude of the local governments and that of the central Government as concerns missionaries and the institutions under their care.

(6) We can hardly say that the attitude of the Ottoman Government is becoming more friendly to the missionaries and their work. In many cases it would seem that there is greater friendliness than formerly. At other times it appears that there is more strict surveillance, and greater opposition than ever. From the promulgation of new and stringent laws in regard to schools and book-selling, it would appear that we are more and more carefully hindered than formerly; but on the other hand the people and the local governments are, as a general thing, more and more friendly to us as they know us better and see the evident benefit of our work.

I remain, yours,

CHARLES C. TRACY,
*Director of Anatolia College.*

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[Inclosure 6 in No. 92.]

*Mr. Cole to Mr. Jewett.*

BITLIS, *December* 22, 1887.

SIR: Your favor of the 5th instant came to hand by the last post, and as my associate, Rev. Mr. Knapp, has but recently returned to this country after an absence of two years, he requests me to answer it, which I do at once.

If I were to answer your questions in brief, without comment, as looking to the past year or two, you would be likely to gather that American missionaries in this vilayet had no occasion to complain. Perhaps it will be as well for me to take up the questions and answer them in their order briefly, leaving explanations to come in further on.

(1) Referring to improvement or otherwise in our relations with Turkish officials the past year or two, I may say that for the three years since my transfer here from Erzroom I have seen no particular change, though we may be said to be on friendly terms with the officials.

(2) I do not recall any cases of direct persecution of our Protestants as such, either by the officials or by their connivance.

(3) There have been no obstacles interposed in the establishment of new schools or the erection of new buildings, though for the last there were threats once.

(4) There has been no interference with schools already established.

(5) The general attitude of the local government towards our schools is rather of indifference, as if they had given the subject little thought yet, though, as I have said under No. 1, our relations may be said to be friendly thus far.

(6) We can hardly say that the Ottoman Government as such is becoming more friendly and tolerant towards American missionaries, and especially their work.

Following your sixth question, you ask for any other points that may suggest themselves, which emboldens me to comment a little, as I hinted above. We are so far removed from the central Government that indifference has characterized the procedure of local officials rather than close scrutiny of our movements hitherto, while at the same time they seem to have a good measure of confidence in us personally. Still, in our call on a former Vali Pasha, that official made such reference to our high school for boys and indicated he was in receipt of such regulations as obtain in other parts respecting diplomas of teachers, course of study, etc., but they have not been enforced here yet among any of the sects. Our colporteurs enjoy much freedom in the sale of books through the vilayet with an ordinary teskereh. How soon such hindrances are to come in here as have taken place in the adjacent vilayets of Van, Erzroom, Harpoot, etc., we know not, though some think it may be near.

We make it a point to fall into line with new laws and regulations just as fast as local officials inform us; but ignorant as they are, we do not deem it prudent to go to them, as if to enlighten them before the time, as if we were afraid, and anxious to avoid difficulty, lest they turn upon us in hopes of some "hush money." On my arrival here, three years since, bitter opposition was being made by bigoted Moslems to the erection of the Protestant chapel, chiefly because it was beside their old graveyard. But the usual firman from Constantinople, backed up by such a liberal-minded man as Arif Pasha, present Vali of Diarbekir, put that to rights.

Previous to my arrival here, one robber chief, Moussa Bey by name, assaulted and plundered Messrs. Knapp and Reynolds, as your excellency must have been informed. Though these missionaries were repeatedly brought before the Bitlis criminal court

to testify in this case, yet the brigand himself has been suffered to roam the country at large, some of the time holding office under the local government, thus going wholly unpunished notwithstanding Mr. Knapp identified him as the guilty culprit in presence of the court that affected to be trying the case. Through pressure of our embassy at Constantinople, this court has made a show of activity in this matter since my arrival here. Once they sent a *zaptiyeh* summoning Messrs. Knapp and Reynolds, when I answered that one was in America and the other in Van. Of course they knew as well as I that said gentlemen were not here, and the performance on the part of the officials was only a feint for reasons well known to them and to most of much experience in Turkey. American subjects might be taken to court time and again under escort of zaptiyehs, like guilty culprits, yet this highway robber seemed thrown back on his honor to appear, which he did for only once, this time when Mr. Knapp identified him. Such painful miscarriage of justice in this case has cast grave reflections on the American Government and gives us less assurance for the safety of ourselves and property. But I have written fully of these matters to the embassy, and need not enlarge here.

The last matter I might refer to is that of a house which Mr. Knapp bought at auction of the Bitlis government in 1859, it having been sold in lieu of a debt. Though all the usual papers were given assuring Mr. Knapp full possession, in time an orphan presents a claim to the property.

Though it was not sustained for years, at last it found a hearing, when a certain Cadi set eyes on claimant's proffered bribe. Before rendering his decision he sent, through a third party, assuring Mr. Knapp that even if he would award even a much less one the rendering should be in his behalf. Naturally this was not forthcoming, and so claimant gained his case, following which he has been clamoring for right of possession for the last few years, the court thus formerly sold it, meanwhile taking his part in pressing his claim upon us. In accordance with advice from the embassy, Mr. Knapp reluctantly appeared before the Turkish court in an attempt to defend the property, resulting adversely, as stated above. On my arrival here, and soon after Mr. Knapp had left for the United States, after careful consultation with a lawyer and others, I made the attempt and succeeded in getting said court to take upon it to defend the property, since it in the early years had sold it. In this way a contrary rendering was realized, though claimant at once entered an appeal. Though we carefully pursued the officials lest the allotted time for an appeal pass, through trickery here and at the Van court of appeal, the case was declared to have gone by default, so that it has been with the greatest difficulty that we have at last succeeded in throwing it before the supreme court at Constantinople, where it pends a decision. This much, in brief, is a summary of the Knapp-Sarkiss house case; that, too, has been pretty fully reported to our embassy, to whose kind offices we are much indebted. The suit has, more especially before we succeeded in throwing it off upon Government and some since, given us much trouble, threatening at one time to cast us into the street in mid-winter, exposed to a noisy, fanatical crowd in this, one of the most fanatical cities of all Turkey.

I am, most respectfully,

R. M. COLE.

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[Inclosure 7 in No. 92.]

*Mr. Dewy to Mr. Jewett.*

MARDIN, *January* 21, 1888.

SIR: Your communication of December 5 came to hand some little time since. I am sorry that press of work and illness have prevented an earlier answer.

In reply to your specific inquiries:

(1) I think there has been no essential change at our station in the last year or two in the relations between the missionaries and the Turkish authorities.

During the ten years that I have been a member of the station these relations have generally been quite pleasant, amounting in some instances to personal friendship. Perhaps relations are not now quite so friendly as formerly, but that may be owing largely to the fact that terms of office have become so much shorter that there is not the same opportunity for extended acquaintance.

(2) I know of no recent cases of persecution of Protestant converts by the authorities. Persecution comes rather from the ecclesiastics of the old churches, or from the Aghas, whose primary object is plunder, though they are no doubt instigated by the ecclesiastics. The attitude of the authorities seems to be for the most part one of indifference so far as religion is concerned, but ever with an eye open for any possible pecuniary advantage. They seldom interfere one way or the other unless under the stimulus of prospective gain, or when driven to it by interested parties whose influence is feared.

(3) We have thus far met with no obstacles to the establishment of schools. We occasionally hear that something is going to be done in the way of restriction, but thus far no aggressive action has been taken. And no serious obstruction has been put in the way of the erection of new buildings. A few years ago a very serious opposition was encountered in the putting up of a new building in Sert, but this was from the people rather than from the Government. Recently Dr. Thom has begun the erection of a hospital here in Mardin, for which a permit was readily given. Mr. Gates, wishing a new school building, asked for a permit to build a house without any specification of the purpose for which it was to be used, and it was given. I suppose that if formal permission for a school had been requested, there would have been no end of trouble, and very probably the building would have been prohibited.

(4) There have been no cases during the past year of interference with schools already established.

(5) The general attitude of the local government in our district toward the American missionaries and their schools is that of indifference. Occasionally a progressive official, having apparently a real patriotic interest in the uplifting of the people, will seem to take an interest in our schools, will perhaps visit them and speak in commendation of them. But this class seems to be becoming fewer and fewer. Occasionally, on the other hand, a bigoted man comes onto the stage and assumes a hostile attitude, but it scarcely goes further than talk.

(6) I have no question that the attitude of the Ottoman Government (meaning the central authority at Constantinople) is becoming less friendly and tolerant toward the American missionaries and their work. That we here are not hindered more than we are I suppose is owing to the laxness of the relations between the General Government and the local authorities. It seems as though the latter were allowed to do pretty much as they please, and bribery, venality, and corruption reign. We endeavor to keep on good terms with those in authority and generally succeed in doing so, though the mere fact of being foreigners now counts for much less than in former days. Rarely an official has seemed to have some intelligent apprehension of the aims of our work, and has not hesitated to speak appreciatively of the good effect upon those who have come under its influence, as shown in their relations to the Government. Not a few have been ready, in appearance at least, to render assistance in efforts to secure redress for members of our Protestant communities who may have been wronged. In these days, however, it takes rather more urging than formerly to bring them up to the point of action that will amount to anything. So we try so far as possible to have our native brethren keep their cases out of Government courts.

Here at Mardin perhaps we have no reason to complain, but the experiences of some other stations in matters concerning property, and even personal safety, would seem to indicate that our Government has not taken the interest in the welfare of her citizens sojourning in the Ottoman Empire that might naturally have been expected. Far be it from me to intimate that our Government should undertake, as some other nations have done, religious propaganda. But if we are allowed to enter the Empire and prosecute this work, which has for its sole object the spiritual welfare, with attendant moral, intellectual, and social elevation of the people, are we not entitled to the watchful oversight and consideration of our own Government in as great degree as would be accorded to those engaged in pursuits the only object of which is personal gain?

Very sincerely, yours,

WILLIS C. DEWY

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## No. 1077.

### *Mr. Straus to Mr. Bayard.*

No. 69.] LEGATION OF THE UNITED STATES,
*Constantinople, April* 24, 1888. (Received May 7.)

SIR: I have the honor to inform you that on the 21st instant I returned to my post after an absence of six weeks and three days.

I visited Cairo, Jaffa, Jerusalem, Beirut, Messina, and Smyrna, and conferred with our consuls in these several districts, also with the governors and governors-general of the respective vilayets in the Empire. I desire to acknowledge the universal courtesy I met with on the part of these officials, and to express my satisfaction as to the very pleasant relations existing between them and our consuls.

While at Cairo his highness, the Khedive, showed me every possible courtesy.

I had so arranged my trip that I might be at Beirut at about the time the order for the re-opening of the schools of the American Presbyterian Board of Missions in the vilayets of Syria and Beirut was to go into effect. I am gratified to report that fifteen of said schools had been re-opened in anticipation of my arrival, and that orders were received from the Porte for the immediate re-opening of five additional schools in the Syrian vilayet the day I left Beirut, namely, April 4. These are pretty much all, if not the entire number, that the missionaries care to re-open at this time. Such was my understanding of their wishes when they waited on me in a body, while at Beirut, to express their gratification upon the result.

I make this preliminary report as to schools to inform the Department, at the earliest possible time after my return, of the result in general terms. A more detailed report will be made when I receive the consuls' official statements, should it appear to be necessary.

I desire in this connection to commend the zeal, tact, and energy shown by Mr. Bissinger, our consul at Beirut, and to testify to the valuable aid he afforded in the accomplishment of the result.

I have, etc.,

O. S. STRAUS.

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No. 1078.

*Mr. Bayard to Mr. Straus.*

No. 95.] DEPARTMENT OF STATE,
*Washington, April* 25, 1888.

SIR: I desire to acknowledge receipt of your No. 68 of the 5th instant, relative to the naturalization of Hercules A. Proios, and to inclose for your information a copy of a dispatch from your colleague at St. Petersburg, No. 168,* of the 31st ultimo, and of my reply thereto, No. 120,* of the 17th instant, from the latter of which it will be seen that this Department perceives no valid ground for remonstrance against the action of the Russian Government in surrendering Proios to Turkey.

The Department's passport, to which you advert, No. 15046, of September 8, 1871, was issued to Mr. Proios, a native of Greece, on regular affidavits, supported by a certificate of naturalization from the criminal court of Cook County, Illinois, dated August 14, 1871.

But while Proios was naturalized as a Greek and renounced his allegiance to the King of the Hellenes, yet, in view of his long residence in Turkey and the absence of evidence of *animus revertendi* on his part, this Department can not regard his former naturalization in the United States as an offset to the allegation of the Turkish Government, that he subsequently became a subject of the Ottoman Porte, by his express and voluntary act. Should Proios offer evidence to prove that he consistently and openly professed and retained his American citizenship, you should weigh it carefully.

I am, etc.,

T. F. BAYARD.

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* See Docs. Nos. 951, 952, *ante*, pp. 1405, 1406.

## No. 1079.

### *Mr. Straus to Mr. Bayard.*

No. 71.] LEGATION OF THE UNITED STATES,
*Constantinople, April* 30, 1888. (Received May 15.)

SIR: Herewith I have the honor to inclose a copy, with translation, of a *note verbale* addressed to this legation by the Sublime Porte requesting me to direct our consul at Odessa not to oppose the sending of said Proios here, he having been demanded for extradition from Russia.

It is charged that said Proios, while in the employ of the sanitary office at Galata, had appropriated a considerable sum of money belonging to the taxes, and that he falsified the accounts (*convaincu de faux en écritures*). It will appear that it is claimed that said Proios is a Turkish subject; the records of our legation, however, show that said Proios is a naturalized American citizen. (See No. 68 of April 5, 1888, written by Mr. King during my absence.)

I have answered the Sublime Porte, stating that, as the said consul at Odessa was not in anywise under the jurisdiction of this legation, I had, with a view of expediting the matter, referred the same to the Secretary of State at Washington.

Should you decide to order our consul at Odessa to withdraw his opposition, permit me to suggest, if it be practicable, that such be done on condition that the Ottoman Government will agree to abide by the provisions of Article IV of the treaty of 1830, namely, that he be tried by the American consul, unless it can be shown that he is not a naturalized American citizen. This would avoid a very vexatious question under the disputed interpretation of said article of our treaty of 1830.

I have, etc.,

O. S. STRAUS.

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[Inclosure in No. 71.—Translation.]

*The Ministry of Foreign Affairs to the Legation of the United States.*

MINISTRY OF FOREIGN AFFAIRS,
*March* 31, 1888.

The Ottoman subject, Hercules Proios, formerly collector at the sanitary office of Galata, succeeded in making his escape to Russia after having appropriated a considerable sum of money from the taxes, the collection of which had been intrusted to him. By the investigation which has been made it was established, moreover, that he is convicted of having falsified his accounts.

The Imperial Government of Russia, from which the extradition of the accused was demanded, had him brought to Odessa to be forwarded to Constantinople, when the consul of the United States in that city intervened and opposed his shipment, claiming him as an American citizen. This opposition is the less justified as Hercules Proios is the son of Antonio Proios, an Ottoman subject.

However, as the question of his nationality can be reserved to be decided here, nothing prevents that this former functionary be brought to Constantinople in order to be tried in conformity with the law.

The ministry of foreign affairs begs in consequence the legation of the United States of America kindly to write by telegraph its said agent not to oppose further the sending of the accused to Constantinople.

No. 1080.

*Mr. Straus to Mr. Bayard.*

No. 77.] LEGATION OF THE UNITED STATES,
*Constantinople, May* 9, 1888. (Received May 26.)

SIR: As supplemental to my No. 69, of April 24 last, in respect to the re-opening of the Syrian schools, I have the honor to inclose a copy of a dispatch, No. 114, of April 26 last, from Consul Bissinger to the consul-general, whereby it appears that all of the twenty-one schools of the Board of Foreign Missions of the Reformed Presbyterian Church, located in the mutessarifiate of Latakia, in the vilayet of Beirut, have been re-opened, excepting one situated in Tartous, which, it appears, can be re-opened as soon as the missionaries desire to do so.

I have, etc.,

O. S. STRAUS.

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[Inclosure in No. 77.]

*Mr. Bissinger to Mr. Stamatiades.*

No. 114.] UNITED STATES CONSULATE, *Beirut, April* 26, 1888.

SIR: Reverting to my No. 113 of the 23d instant, and with further reference to the twenty-one schools of the Board of Foreign Missions of the Reformed Presbyterian Church of the United States of America, located in the mutessarifiate of Latakia in the new Beirut vilayet, I have now the honor to inform you, upon the statement of Mr. Henry Easson, the manager of these schools, that all of them that it is considered expedient or desirable by the mission to maintain, are quietly pursuing their studies, leaving but one more to be re-opened, situated in Tartous, in the mutessarifiate of Tripoli, which will doubtless be permitted to resume its usual course of studies at the pleasure of the representatives of the above-cited mission.

This most satisfactory status of the mission schools in the Latakia consular district will no doubt prove most acceptable intelligence to our respected minister, for whose perusal I would respectfully request a copy of this dispatch to be transmitted.

I am, etc.,

E. BISSINGER,
*Consul.*

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No. 1081.

*Mr. Straus to Mr. Bayard.*

No. 78.] LEGATION OF THE UNITED STATES,
*Constantinople, May* 9, 1888. (Received May 26.)

SIR: In reply to your instructions Nos. 89 and 90, with inclosures, in respect to the petitions addressed to the Department of State by the trustees of the University of Pennsylvania, by the president of Johns Hopkins University, and others, praying that you instruct me to apply to the Ottoman Porte for a firman permitting excavations to be made in the ruined cities of Mesopotamia, I have the honor to report:

Great pressure is constantly being brought to bear by European archæologists through the representatives of their respective Governments here to obtain privileges for explorations and excavations in various parts of the Ottoman Empire, including the districts designated by the memorialists.

Though I have made careful inquiry, I have not learned of any persons or societies succeeding in obtaining any other or further privi-

leges since the passage of the law now in force than those that are provided for under that law.

I herewith inclose for the information of the Department a translation of the law in question and the law. I forward this law *in extenso*, so that persons and societies in America interested in the subject may be fully advised, and may feel no disappointment should they not succeed in securing any better terms than are therein provided for.

It will be observed that article 3 provides that all objects discovered in the Ottoman territory are the property of the Government. I desire in this connection to recur to the substance of a statement contained in my former dispatch, No. 56, that any arrangement that could be made, such as permitting the excavators to take duplicates, would depend largely, if not entirely, upon the result of personal negotiations with Hamdy Bey, the director of the imperial museum.

Under the circumstances above set forth, in view of the Porte having heretofore declined to grant other privileges than those provided for under the law, it will be difficult for the Porte, as I have been informed by the Grand Vizier, without giving offense to others, to make an exception in behalf of the petitioners.

The natural obstacles in the way conflict with the advisability of applying for two firmans in view of the several interests referred to in your instructions.

In order not to lose time I have brought the subject before his highness the Grand Vizier, and have fully, on several occasions discussed the matter with him. He has promised me his support, with a view of laying the matter before His Majesty, with the hope of obtaining his iradeh, under which a portion, or possibly one-half, of the objects discovered shall belong to the excavators. I have to-day, at his suggestion, addressed a personal note to him (the Grand Vizier) upon the subject. The matter shall have my most careful attention. I deem it of the utmost advisability that the conflicting interests work together and co-operate in one body, so that the firman, should it be obtainable, can be issued to that body for the benefit of all concerned.

It will be my endeavor to obtain the most favorable concession possible, and in a form as practicable as possible.

I have, etc.,

O. S. STRAUS.

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[Inclosure in No. 78.—Translation.]

*Law on archæological excavations.*

ARTICLE 1. The remains left by the ancient populations of the states forming at present the dominions of the Ottoman Empire—that is to say, the gold and silver and other ancient coins, and the inscriptions conveying reference to history, and statues and sepultures and ornamental objects in clay, stone, and other materials, utensils, arms, tools, statuettes, ring-stones, temples, palaces, circuses, theaters, fortifications, bridges, aqueducts, bodies and objects in tombs, burying mounds, mausoleums, and columns—are regarded as antiquities.

ART. 2. In general, the right of ownership of all the antiquities is regulated by the present law.

ART. 3. All the antiquities discovered in the Ottoman territory, be it on the surface, under ground or exhumed, picked up in the sea, the lakes, the rivers, the streams, or the valleys, are the property of the Government.

ART. 4. The monuments of antiquity which happen to be in the property or houses of private persons, either loose or built in the walls, can not be moved by the proprietors of the property; and for the keeping of those antiquities in their original place the Government has inaugurated the following measures.

ART. 5. It is forbidden to destroy the antiquities which may be discovered in one's land, like buildings, roads, walls of castles and fortresses, baths, tombs, and other things; and in order not to occasion any damage to antiquities they will refrain from establishing any lime-kiln at a distance less than half a kilometer from the spot where the antiquities are to be found; or from the erection of any kind of building and works which would be injurious; or to remove the stones of tumbled-down ancient monuments; from measuring or taking moulds, or of placing ladders on them for any purpose whatsoever; from appropriating or restoring old buildings and making use of them in part or in all, or to use them for deposits of grain, straw, or hay, or to use them as tanks, or for cattle, or turn them into fountains, or to use them for other purposes.

ART. 6. The places on which the Government has decided to make excavations may be bought from their owners, if they are in the hands of private persons or societies; if they refuse to sell, the regulation on expropriation for public uses shall be applied in order to buy that property.

ART. 7. No one is allowed to make excavations to extract or appropriate antiquities in the Ottoman dominions without having previously obtained the official permit in accordance with the present regulation.

ART. 8. The exportation of antiquities found within Ottoman territory is absolutely forbidden.

ART. 9. The permit for the excavation and exhumation of antiquities may be granted to private persons or to any scientific society. The terms of that permit must be in accordance with the conditions of the present regulation.

ART. 10. As to the searches and excavations of antiquities, after the opinion of the administration of the imperial museum and the conclusions of the council of public instruction have been obtained, and after the ministry of public instruction has submitted the case to the Sublime Porte, the final permit will be granted in accordance with the terms contained in the third chapter of the present regulation.

ART. 11. A duplicate list describing the quantity and the quality of the objects excavated must be made on the printed blanks to be furnished by the ministry of public instruction, which must be signed and certified; then one of the copies will remain with the excavator and the other with the board of public instruction; where such boards do not exist they will be recorded in the books kept for the purpose by the local authorities and sent to the ministry of public instruction.

ART. 12. The antiquities excavated with an official permit belong to the imperial museum, and the excavators have only the right to take drawings or moulds.

ART. 13. The antiquities discovered without permit are confiscated, and if the excavator has already disposed of them he will pay their value.

ART. 14. The antiquities which may be discovered by accident in digging the foundations of a building, or of a wall, or of a sewer, shall be divided in equal parts between the owner of the property and the Government, and then at the division of those antiquities, as the Government has the choice of taking such as it thinks proper on paying their value, it may get from the land-owner out of those which have fallen to his share such a portion as it wants.

ART. 15. Those who desire to undertake excavations of antiquities shall prepare a topographical plan showing the boundaries of the spot to be excavated, and present it at Constantinople to the ministry of public instruction, and if they are in the provinces, to the governors-general with their written request, and the governors-general will forward it, together with their report of their investigation of the subject, to the ministry of public instruction.

ART. 16. The delivery of the permit of excavation appertains to the ministry of public instruction after agreement with the direction of the imperial museum, but unless the necessary investigations are made, and, according to article 10, the consent of the Sublime Porte is obtained, this permit can not be given.

ART. 17. The permit for excavating antiquities can only be granted under the following conditions:

(1) After having ascertained that it will cause no obstruction to the forts, fortifications, public buildings, nor interfere with public utility.

(2) If the excavations are to take place in the landed property of a private person, to satisfy the owner.

(3) The pecuniary security which will be agreed upon by the director of the imperial museum must be actually deposited.

After the fulfillment of these conditions the ministry of public instruction, after having conformed to the prescriptions of the preceding article, delivers the permit.

But no permit can be granted for more than two years.

And if, before beginning the excavations, or even after having begun them, for some reason the period of the permit is allowed to pass and the explorer wants to continue his researches, if there is no objection, the ministry of public instruction, after an agreement with the director of the museum, may grant a permit for an additional period, not longer than one year.

ART. 18. The ministry of public instruction will collect on the permits of excavation on account of the museum—

| | Piasters. |
|---|---|
| On a permit from one day to six months | 5 |
| On a permit from six months to one year | 10 |
| On a permit from one year to two years | 20 |

ART. 19. If, after having obtained the permit, the excavations are not commenced within the period of three months from its date, or after having commenced them they should be discontinued for two months, the permit will be annulled; and if the explorer wants to renew it, the ministry of public instruction, with the director of the museum, may continue or not the old permit, or cancel it and furnish a new one in its place.

ART. 20. The permit for excavations shall not embrace a larger area than 10 square kilometers. If after the commencement of the excavations an objection is found on the part of the Government, on the order of the ministry of public instruction, the works shall be temporarily stopped; and the time of stoppage shall not be accounted for in the period of the permit, and the explorers will have no claim for expenses or damages on account of that stoppage.

ART. 21. At the places where excavations are to be made the Government will keep an able and capable official; and the traveling expenses and the salary of this official, after having been fixed by the authorities, will be collected from the excavators in full and paid to him monthly by the treasurer of the public instruction.

If the excavations are finished before the expiration of the permit, and the researches abandoned, the surplus of the money paid for the salary of the official shall be returned to the excavator.

ART. 22. No permit of excavation shall be granted to officials of the Ottoman or of a foreign Government for excavations to be made within the district of their official post.

ART. 23. The transfer, by the recipient, of a permit of excavation is forbidden.

ART. 24. A person can not have permits for excavations in more than one place.

ART. 25. Those who, by accident, discover antiquities are bound, if at Constantinople, to inform the ministry of public instruction within five days; and if in the provinces, to inform the local authorities within ten days.

ART. 26. At the expiration of the permit, or at the termination of the excavations, when the excavator gives notice of it, if it is found that he has fulfilled all the conditions of the regulations, the money he had deposited as security will be returned to him in accordance with the receipt.

ART. 27. The amount produced by seizures of antiquities, or, on condemnation, from sales at public auction, in accordance with the rule, by an official auctioneer, and the money accruing from divisions with the owners of antiquities, and also fines, and fees of permits, and the product of confiscations, shall belong to the treasury of the museum.

ART. 28. The importation from abroad of any kind of antiquities is free and exempt from customs dues; and any kind of antiquities which are to be transported from one district to another within the Ottoman dominions are exempt from internal duties.

ART. 29. Permission for the re-exportation of antiquities introduced from abroad into the Ottoman dominions, and for the transportation from one district of the Empire to another of antiquities found within the Empire, can be obtained by means of drawing up a list of said antiquities by the owner and shipper, and transmitting it to the director of the museum through the ministry of public instruction; and in the provinces, to the boards or commissions of public instruction; and in localities where there are no such boards or commissions, to the local authorities. The owner of antiquities introduced into the Empire from abroad is bound, within eight days, to transmit a list of them, as before stated, to the administration of the museum through the ministry of public instruction; and in the provinces, to the board or commission of public instruction; and if there is no such board or commission, to the local authorities.

ART. 30. In any case the re-exportation of antiquities imported from abroad, and the transportation from one district of the Empire to another of antiquities found within the Empire, is necessarily subject to an official authorization, which can be procured from the ministry of public instruction with the agreement of the director of the museum.

ART. 31. The antiquities exported without the special permit of the ministry of public instruction shall, if captured, be seized or confiscated in the name of the museum.

ART. 32. The granting of the official permission to export antiquities into foreign countries, though reserved to the ministry of public instruction with the consent of the director of the museum, is subject to the following conditions:

(1) The museum should possess already a duplicate of the kind.

(2) That it should be established that the said antiquities have been imported from a foreign country.

ART. 33. Those who appropriate antiquities found on the ground or exhumed on private or government property, will be liable, in accordance with article 138 of the penal code, to damages and a fine, and to imprisonment from one month to one year.

ART. 34. If those who have accidentally discovered some antiquities do not give notice of it, they, after being deprived of the share to which they had a right, are punished with a fine equal to one-fourth of the value of their discovery, and if those antiquities are out of reach, besides the fine they will have to pay their total value.

ART. 35. Those who, in transporting from one district to another antiquities found within the empire, violate article 32, will be subjected to a fine from 1 to 5 Turkish pounds.

ART. 36. The lawsuits which may originate out of these regulations shall be heard in the ordinary courts of law.

ART. 37. The ministry of public instruction is charged with the enforcement of the present regulations.

The 23 of Rebbi-ul-Akbir 1301 and 9th of February, 1299 (*i. e.*, February 21, 1884, A. D.).

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## No. 1082.

### *Mr. Bayard to Mr. Straus.*

No. 96.] DEPARTMENT OF STATE,
*Washington, May* 17, 1888.

SIR: I have received your No. 71 of the 30th ultimo, in which the Ottoman Government requests you to instruct the consul of the United States at Odessa not to interpose objection to the return to Turkey of H. A. Proios, whose extradition is demanded from Russia.

Mr. Thomas E. Heenan, the consul, has been called upon for full information in regard to the case.

I am, etc., T. F. BAYARD.

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## No. 1083.

### *Mr. Straus to Mr. Bayard.*

No. 80.] LEGATION OF THE UNITED STATES,
*Constantinople, May* 19, 1888. (Received June 2.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 78, of March 5 last, with inclosure, respecting restrictions against foreign Jews resorting to Palestine.

Upon investigation I learn that the restrictions have not been made in pursuance of the sultan's iradeh, but result from instructions issued by the Sublime Porte.

In effect, however, there is no difference, as they have been strictly enforced by the governor of Jerusalem and throughout Palestine, as well as at certain ports along the Syrian coast.

In accordance with your instructions I inquired of two of my colleagues, the English and French ambassadors, their views upon the subject. I learn that they had received from their respective Governments instructions very much in the same sense as I had received from you.

As long since as the 23d of September, 1887, the right honorable Sir William A. White, the British ambassador, sent a note to the Porte protesting against the regulations upon the ground that the right of

British subjects to go and come within the Ottoman dominions is secured by the capitulations and confirmed by all subsequent treatiés, and that no distinctions of race or creed can be admitted as regards British subjects or protégés whatever religion they may profess.

The French ambassador, Count de Montebello, informs me that he had been instructed to protest against said regulations, and that he would be pleased to confer and co-operate with the English ambassador and myself in the matter. Some three weeks since he informed me that he proposed sending a signed note to the Porte protesting against said regulations; that he had also conferred with the British ambassador, who stated that he would take similar action as soon as a new case in point came before him.

As there is likely to be some delay before my said colleagues take the action indicated, in view of your positive instructions, and the fact that I am informed by the Grand Vizier that the regulations in question have been referred to the legal advisers of the Porte for examination and report upon the question of their modification, I deemed it advisable to delay no longer in forwarding my protest so that it might be before the Porte pending the further consideration of the subject and before a final conclusion might be arrived at. I therefore on the 17th instant transmitted a note to the Porte, of which the inclosed is a copy, wherein I followed in the main not alone the spirit but the letter of your very full and explicit instructions, which I found so completely and well adapted for that purpose.

Trusting that the action thus far taken by me will meet your approval, I have, etc.,

O. S. STRAUS.

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[Inclosure in No. 80.]

*Mr. Straus to Said Pasha.*

No. 27.] LEGATION OF THE UNITED STATES,
*Constantinople, May* 17, 1888.

EXCELLENCY: Respecting the recent instructions placed by the Imperial Ottoman authorities upon foreign Jews going to Palestine, the Secretary of State has referred to me, with definite instructions, a note addressed to him by his excellency Mavroyeni Bey, imperial minister at Washington, bearing date the 2nd day of March, 1888, whereby he informs the Government of the United States that, in order to put an end to the immigration of Jews into Palestine, "the Sublime Porte has decided only to authorize free access into Palestine to Israelites coming from foreign countries under the following conditions: Their passports should expressly state that they are going to Jerusalem in the performance of a pilgrimage and not for the purpose of engaging in commerce or taking up their residence there. As regards their sojourn in Palestine, instead of one month, it can not in any case exceed the space of three months. They must have their passports so drawn up (*libellés*) viséd by the Ottoman consuls, and on their arrival they will be bound to supply themselves with a *permis de séjour* issued by the Imperial authorities and couched in the same terms."

I am instructed to inform your excellency that under any circumstances the impossibility of my Government acceding to any such requirement should be distinctly made known to the Sublime Porte.

To require of applicants for passports, which under our laws are issued to all citizens upon the sole evidence of their citizenship, any announcement of their religious faith or declaration of their personal motives in seeking such passport would be utterly repugnant to the spirit of our Constitution and to the intent of the solemn proscription by the Constitution of any religious test as a qualification of the relations of the citizens to the Government, and would, moreover, assume an inquisitorial function in respect of the personal affairs of the individual, which our Government can not exert for its own purposes and could still less assume to exercise with the object of aiding a foreign government in the enforcement of an objectionable and arbitrary discrimination against certain of our citizens.

I am informed that these restrictive regulations are being very cruelly enforced, not only in Palestine but at the various ports along the Syrian coast, and that for-

eign Jews upon their arrival at these ports, in addition to the foregoing restrictions, are compelled to furnish security to the local authorities that they will again leave the country when the period of three months has expired, and in default of their being able to furnish such security they are thrown into prison.

The foregoing considerations are submitted with the hope that the Sublime Porte will cause these restrictions to be modified or annulled in accordance with the broad principles of toleration that were proclaimed throughout the Ottoman Empire first among the nations of Europe and the Old World, that are embodied in the grand charters of liberties, the Hatti-Scheriff and Hatti-Humayoun, and secured to all races and creeds under the capitulations, and under treaties with the United States and other nations.

Accept, excellency, etc., O. S. STRAUS.

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## No. 1084.

### *Mr. Bayard to Mr. Straus.*

No. 101.] DEPARTMENT OF STATE,
*Washington, May* 24, 1888.

SIR: I have received your No. 69 of the 24th ultimo, announcing your return to your post and the re-opening of the American schools in Syria.

That portion of your dispatch treating of this latter subject has been printed in a special issue, No. 13, of the Consular Reports (two copies of which I inclose), and distributed among the secretaries of the several missionary societies who have lately addressed the Department respecting the closing of such schools by the Ottoman governments.

The ability, tact, and energy displayed by you in the prosecution of this delicate and important question is deserving of the greatest credit, while the success which has finally crowned your efforts is exceedingly gratifying and entitles you to the Department's special acknowledgment.

Awaiting such further report as you may think necessary upon receipt of the official statement from the consul, I am, etc.,

T. F. BAYARD.

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## No. 1085.

### *Mr. Straus to Mr. Bayard.*

No. 85.] LEGATION OF THE UNITED STATES,
*Constantinople, May* 26, 1888. (Received June 9.)

SIR: Referring to my dispatch, No. 80, of the 19th instant (subject: Restrictions against foreign Jews resorting to Palestine), I have the honor to inclose for your information a copy of the note sent by the British embassy, as well as a copy and translation of the note sent by the French embassy to the Sublime Porte upon this subject, bearing date, respectively, the 24th and 23d May, 1888.

I have, etc., O. S. STRAUS.

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[Inclosure 1 in No. 85.]

*The British embassy to the ministry of foreign affairs.*

No. 66.] CONSTANTINOPLE, *May* 24, 1888.

Her Britannic Majesty's embassy has had occasion lately to draw the attention of the imperial ministry of foreign affairs to the inconvenience caused to certain British

subjects in the mutessariflik of Jerusalem by the application to them through the local authorities of special rules as to residence on account of their being of the Jewish creed.

Whilst reserving to itself to demand redress for any special case that may be brought to its cognizance, Her Majesty's embassy considers it essential to submit to the Sublime Porte the present demand for the complete abrogation of any instructions which may have been issued on this subject, and which it can only consider as derogatory to the rights and privileges guarantied to all British subjects without distinction of creed or class in all the dominions of His Imperial Majesty, the Sultan.

Her Majesty's embassy has had the honor to receive the note of the Sublime Porte, No. 20, of February 23, but Her Majesty's Embassy can not take into consideration the concessions the Sublime Porte has kindly consented to make, as Her Majesty's Government looks upon the principle involved as too serious to admit of any regulation whatsoever being made which would be prejudicial to the liberty of traveling guarantied in Turkey by virtue of existing rights and observed in Great Britain towards all classes of persons without any distinction of religion.

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[Inclosure 2 in No. 85.—Translation.]

*The French embassy to the ministry of foreign affairs.*

No. 46.] PERA, *May* 23, 1888.

The French embassy has been advised by its consul at Jerusalem that the French Israelites have been for some time the object of vexatious measures on the part of the local authorities of Palestine. In accordance with this information the agents of the Imperial Government have demanded several times from the vice-consul at Jaffa, formally to engage himself to oblige the French Israelites landing in that port to leave again after a maximum period of thirty-one days; the representatives of the French Government having refused to lend himself to such a demand, his countrymen have been constrained to re-embark immediately.

The embassy has the honor to observe to the Sublime Porte that the limitation of the sojourn in Palestine of French Israelites constitutes a manifest derogation of the personal liberty which the treaties guaranty in the Ottoman Empire to all Frenchmen, without any distinction of religion.

By opposing the prolonged sojourn of Israelites in Palestine, the Imperial Government expected, it seems, to put an end to the excessive immigration of individuals of this religion escaping in masses from their country of origin to avoid the persecution to which they are the victims. But if the Sublime Porte deems the assembling in that part of the Empire of the immigrant Israelites may offer some inconvenience, this argument can not at any rate be used in regard to French Israelites. France, in fact, not being in the number of the powers that have taken measures of exception against individuals belonging to the Israelite religion, the Sublime Porte has evidently not to dread the immigration *en masse* of French Jews.

The measure of prohibition imposed against the Israelites coming from abroad would have, then, as regards French citizens, a character purely vexatious and absolutely unjustified, as they would only concern a few isolated families or individuals who, from time to time, go to Palestine.

The French embassy is convinced that the Imperial Government, acknowledging in its high equity the justness of these observations, will not hesitate to retract the rigorous provisions which have been recently adopted in Palestine against French Israelites. It requests, in consequence, the Sublime Porte kindly to give orders, so that those Israelites have hereafter, like other French subjects, every liberty to sojourn in that part of the Empire in conformity to the rights and the guaranties which are secured by treaties.

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## No. 1086.

*Mr. Bayard to Mr. Straus.*

No. 104.] DEPARTMENT OF STATE,
*Washington, May* 31, 1888.

SIR: I transmit for your information a copy of a dispatch from the United States consul at Jerusalem, No. 47, of the 25th ultimo, in regard to the case of Assad Kassas. The dispatch shows:

(1) That Kassas' appointment was *bona fide* and not complicated by any suspicion that he was appointed to shield him from legal process;

(2) That the formality of a special permit (exequatur) is not always adhered to; and

(3) That the absence of such formal permit was practically cured in the present case by the certificate Kassas holds, recognizing his service as consular guard and exempting him from military duty in consequence thereof.

I am, T. F. BAYARD.

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[Inclosure in No. 104.]

*Mr. Gillman to Mr. Rives.*

No. 47.] CONSULATE OF THE UNITED STATES,
*Jerusalem, April* 25, 1888.

SIR: In reply to your dispatch, No. 22, of the 16th ultimo, I have the honor to report that the real-estate suit in question, referred to in my No. 38, of February 2 last, was not pending at the time of Assad Kassas' entrance into the service of the consulate as a guard. The date of his nomination is April 1, 1875, and the date of approval April 3, 1875, while the commencement of suit was on October 5, 1886.

An examination of the records of this office fails to supply any written permit for him to take such service. But, I find, this formality is not always adhered to, nor is it usual that such a permit should contain any admission or reservation applicable to the case.

The said Kassas holds a certificate from the military authorities exempting him from military service in recognition of his service as consular guard.

A copy of this report is, as directed, transmitted to Mr. Straus through the consulate-general.

I am, etc.,

HENRY GILLMAN,
*Consul.*

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No. 1087.

*Mr. Bayard to Mr. Straus.*

No. 107.] DEPARTMENT OF STATE,
*Washington, June* 5, 1888.

SIR: I desire to acknowledge the receipt of your No. 80, of the 19th ultimo, in regard to the restrictions of the Sublime Porte against foreign Jews resorting to Palestine, and to approve your presentation of the matter to the minister for foreign affairs.

I am, etc.,

T. F. BAYARD.

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No. 1088.

*Mr. Straus to Mr. Bayard.*

No. 86.] LEGATION OF THE UNITED STATES,
*Constantinople, June* 8, 1888. (Received July 9.)

SIR: I inclose for your consideration a copy of a *note verbale*, with inclosure of a regulation regarding joint-stock companies, received from the Sublime Porte; and likewise a copy of a *note verbale identique*, sent in reply by the different foreign missions, including this legation.

I have, etc.,

O. S. STRAUS.

[Inclosure 1 in No. 86.—Note verbale.—Translation.]

*The ministry of foreign affairs to the legation of the United States.*

Circular.] SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS,
*March* 13, 1888.

The ministry of foreign affairs has the honor to transmit herewith to the legation of the United States of America a copy of the regulation relating to the agencies of foreign joint-stock societies established within the Empire.

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[Inclosure 2 in No. 86.—Translation.]

*Regulation concerning the agents of anonymous societies; that is, joint-stock societies, which, being established in foreign countries, do business in the Ottoman dominion.*

ARTICLE 1. Joint-stock societies which have been established in foreign countries can not establish or appoint any agencies in the Ottoman dominions without having previously obtained a permit from the Ottoman authorities.

ART. 2. The joint-stock societies which wish to obtain the permit shall address their request to the ministry of commerce.

ART. 3. The request must be made by the administrative council of the society or by the board of trustees, or else by the person invested with that power according to its statutes; and it is necessary that a copy of the statutes of the society be annexed to the petition, legalized by the legation upon which the society is dependent.

ART. 4. The ministry of commerce will carefully examine the documents, and if in the statutes there is nothing contrary to the laws, the public interest, and the public morals, the petition of the society will be submitted to the Sublime Porte for instructions, and in accordance with the answer the permit will be granted.

ART. 5. In conformity with the conditions of the preceding article, no agent of any foreign joint-stock society is allowed to perform any business before having obtained the permit.

ART. 6. In accordance with this regulation, the joint-stock societies which are about obtaining a permit for their agent to act in their behalf, in order to go through the formalities, are bound to elect their domicile in the Ottoman dominions.

ART. 7. The agencies of joint-stock societies which have heretofore been recognized by the Ottoman authorities are exempt from making a request within the time specified in the present regulation to obtain the requisite permit; but their representatives, with their capacity and number and their domicile, must be recorded in the books which will be kept at the ministry of commerce.

ART. 8. The ministry of commerce, if it finds that the constitution of the society is contrary to the laws, public interest, and public morals, and that the permit will not be granted, must communicate the fact to the petitioner within three months from the date of petition.

ART. 9. If any changes are to be introduced in the statutes or regulations of a foreign joint-stock company, or if the agent is disposed to act outside of the regulations of the society, he must notify within three weeks the ministry of commerce; and if in those changes there is anything contrary to the laws of the Government, or the public interest and morals, the said ministry can within three months refuse to give the permit.

ART. 10. If any joint-stock society, before having obtained the permit from the ministry of commerce, appoints an agent or representative, he will be at once forbidden from acting.

ART. 11. If any society refuses to submit to the execution of judgments rendered against it, and on which there is no appeal, its permit will be withdrawn, and the execution of the judgment will take place in the usual form.

ART. 12. Every agent of a joint-stock society will be, by a decision of the ministry of commerce, forbidden from acting and his place of business closed if in the course of three months from the publication of the present regulation he has not, according to article 2, presented his petition.

ART. 13. In accordance with this regulation, the ministry of commerce is charged with seeing whether the agents of the joint-stock companies are acting according to their statutes or not.

ART. 14. The ministry of commerce is charged with the execution of the present regulation.

NOVEMBER 27, 1887.

[Inclosure 3 in No. 86.]

*The legation of the United States to the ministry of foreign affairs.*

*Note verbale.*] UNITED STATES LEGATION, *June* 5, 1888.

The legation of the United States has the honor to acknowledge the receipt of the note of the ministry of foreign affairs, dated March 13, 1888, in regard to a regulation of the joint-stock companies established or to be established in future in Turkey.

The legation, though acknowledging the usefulness of such a regulation, regrets to learn that it rests on an entirely inadmissible ground; that is to say, the previous authorization required by the Government. In the opinion of this legation, this clause constitutes an encroachment on the liberty of commerce guarantied by treaties.

Consequently this legation regrets not to be able to give its assistance to the enforcement against its citizens of the regulation in question before the Sublime Porte has come to an understanding on this subject with the United States legation.

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## No. 1089.

### *Mr. Straus to Mr. Bayard.*

No. 87.] LEGATION OF THE UNITED STATES,
*Constantinople, June* 8, 1888. (Received June 25.)

SIR: Some time since the Turkish Government, without consulting the foreign missions here, promulgated a new law regarding printing offices, of which I inclose a copy.

As it conflicts seriously with the rights of foreigners to exercise their trade or profession in the Ottoman Empire, the matter was taken into consideration by the different embassies and legations here, including our own, and a *note verbale identique* has been sent to the Porte, of which I inclose a copy.

This law is another evidence of the jealousy of the imperial authorities respecting all foreign influences, and of their persistent efforts to restrict and abridge established rights and ancient privileges.

I have, etc.,

O. S. STRAUS.

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[Inclosure 1 in No. 87.—Translation.]

*Law concerning printing offices.*

CHAPTER I.—GENERAL PROVISIONS.

ART. 1. The establishment of printing offices in Turkey and the printing of all kinds of books, pamphlets, and writings are free, when in conformity to the provisions of the present law.

ART. 2. Foreign subjects who shall furnish a written pledge, in conformity with the obligations prescribed in article 5 of the present law, shall have the right to establish printing offices in the same manner as Ottoman subjects.

ART. 3. The opening of a printing office is absolutely subordinated to the obtainment of an official authorization. Those persons who shall open a printing office without official authorization, and who shall therein print books, pamphlets, and other writings, will, in pursuance of article 137 of the penal code, have their printing office closed, and shall be liable to a fine of 50 pounds, Turkish.

ART. 4. Ottoman subjects and foreigners who desire to establish a printing office must make an application and annex thereto a declaration setting forth their names and occupations, a sketch of their lives, and shall state in what quarter and street the printing office is to be established, their residence, and the languages in which their publications are to be printed.

This application is to be presented, in Constantinople, to the ministry of the interior, and in the provinces to the governors-general.

ART. 5. The applications of persons desiring to establish a printing office are referred, in Constantinople, to the prefect of police, and in the provinces to the local police. After the status of the applicants shall have been shown and they shall have furnished a written pledge declaring that they will abstain from printing any writing invasive of the sacred rights of his Imperial Majesty, the Sultan, and the interests of the Empire, the official permit shall be delivered to them, in Constantinople, by the ministry of the interior, and in the provinces by the governors-general, upon the official authorization of the ministry of the interior.

A foreigner shall not, however, be permitted to open a printing office except he shall furnish a declaration, legalized by the embassy or legation of his nation, by the terms of which he is never, in the exercise of his profession, to avail himself of the privileges and immunities attaching to foreigners; that is to say, that he accepts, the case arising, the same procedure towards himself and his printing office as is followed towards Ottoman subjects.

ART. 6. After the delivery of the permit, a copy of the declaration annexed to the application of the party shall be sent to the prefect of police, at Constantinople, in order that it may be communicated to the superintendent of police of the district in which the printing office is situated, and in the provinces to the governor-general, to be communicated to the local police.

ART. 7. The proprietors or managing editors of newspapers may open a printing office without special authorization, but on condition that it shall serve exclusively for printing their paper. But if, besides their paper, they shall desire to print any other writings, they shall be obliged, like other proprietors of printing offices, to obtain an official authorization to that end, conformably to the provisions of the present law.

ART. 8. Printing offices opened in virtue of an official authorization may be conveyed by their proprietors to third parties, but the new proprietor must fulfill the formalities prescribed by articles 4 and 5. Printing offices in respect of which these formalities have not been complied with, shall forthwith be closed.

ART. 9. Upon the delivery of the permit for the establishment of a printing office, there shall be collected, at Constantinople, a tax of 3 pounds Turkish, and of 2 pounds, Turkish, in the provinces. For every transfer of a printing office, one-half of the aforesaid taxes shall be collected.

ART. 10. On the death of the proprietor of a printing office which has been authorized in virtue of an official permit, one of the typographers of the establishment shall be provisionally charged with the direction of the printing office; but the heirs of the deceased are obliged to present, within a month and in conformity with the conditions mentioned in articles 4 and 5, a responsible business manager. If, at the expiration of this time, this formality be not fulfilled, the printing office is to be closed until such responsible business manager shall be presented and officially accepted.

ART. 11. Those who remove their printing office to another locality, or change their domicile, or transfer their printing office to another person, are obliged to make the fact known in writing, within five days, at Constantinople, to the ministry of the interior, and in the provinces to the local authority. Printers not conforming to this requirement are liable to a fine of from 5 to 15 pounds, Turkish.

ART. 12. Those who secretly print, in their houses, or in unknown localities, books, pamphlets, and other writings, shall have their printing material confiscated and shall be liable to a fine of from 5 to 20 pounds, Turkish, without prejudice to the penalties prescribed by the law.

ART. 13. Every proprietor of a printing office must publish, at the foot of each book, pamphlet, circular, or other writings, his name, the ward, street, and number of his printing office. If he give not his name or the locality of his printing office, or if he give other names and addresses, he shall be liable to a fine of from 5 to 15 pounds, Turkish, without prejudice to the penalties prescribed by the law.

ART. 14. Type founders and those engaged in making and selling type and other printing materials must present a declaration setting forth their names and surnames, their nationality, the name of the quarter and of the street where their warehouses or workshops are situated. They shall receive the *teskéré* of permission, at Constantinople, from the prefect of the city, and in the provinces from the local municipal office. Those not having such permit, and those who shall not have notified the competent authority of a change in the locality of their warehouses or workshops, shall be liable to a fine of from 1 to 5 pounds, Turkish.

ART. 15. Every printing office shall have in front a sign in Turkish and in the diverse languages employed in the work thereof.

The doors of the rooms where the compositors and the other workmen of the printing office are at work must be closed, at the hour of work, by a latch.

If there be shops and other buildings on the two sides of a printing office, there shall not be any doors, windows, or other openings giving access to such buildings. The printing offices which may not conform to these conditions must be altered accordingly, under penalty of a fine of from 1 to 5 pounds, Turkish.

ART. 16. The officers detailed by the ministry of public instruction, by the superintendency of the press, and, if need be, by the prefect of police, are authorized to inspect the printing offices at all times. The proprietors of printing offices are required to exhibit, on demand, their official permit to such officers.

The reports to be drawn up by these officers shall set forth the violations of the present law which they may discover, and shall be submitted to their respective superiors, in order that, in the proper case, they shall be referred to the public prosecutor of the ministry of justice.

ART. 17. Every proprietor of a printing office, upon requisition thereto by the superintendency of the press, must furnish information of the kinds and classes of materials and tools employed in his establishment; he shall, moreover, furnish printed specimens of the different types used by him. Printing offices contravening this requirement shall be closed from seven to fifteen days.

ART. 18. For books and pamphlets published without authorization and which do not mention the names of their authors or publishers, the proprietors of the establishments where they are printed shall be personally responsible. For books and pamphlets of this class, published without the signature of their authors or publishers, the authors, publishers, and printers shall be jointly and severally responsible.

CHAPTER II.—CONCERNING BOOKS, PAMPHLETS, AND OTHER PUBLICATIONS.

ART. 19. No printer shall print any work whatsoever without the official authorization of the ministry of public instruction. After the work is printed, two copies thereof shall be deposited, before it is put in circulation, in the ministry of public Instruction at Constantinople, and with the local authorities in the provinces, accompanied with a declaration signed by the printer, showing the title of the book and the number of copies printed.

Writings printed by means of lithography, photography, and other processes, songs with or without music, and musical publications of all kinds, and all printed writings, except those designated in article 22, shall be subject to the provisions of the present article.

Religious books, like all other works, shall not be printed without the authorization of the ministry of public instruction.

Non-Mussulman books of religion shall be authorized upon a declaration of the chiefs of the religious societies.

ART. 20. In case the ministry of public instruction should hesitate to grant the authorization for printing any work, the author or publisher thereof may apply to the council of state and demand an examination thereof.

ART. 21. Such printers as can not exhibit a certificate of the ministry of public instruction showing that they have obtained the previous authorization to print such and such books, pamphlets, and documents, and that they have deposited two copies of the same with the ministry of public instruction, shall be liable to a fine of from 5 to 15 pounds, Turkish.

ART. 22. It shall not be necessary to obtain a new authorization for books which have already been printed under official authorization and which have not been prohibited, but on condition that the new edition shall be entirely conformable to the text already printed. It is, however, understood that two copies of the new edition shall, before it is put in circulation, be deposited in the ministry of public instruction, together with one copy of the preceding edition.

In conformity with the provisions of the present law, advertisements of marriage, of death, of trade, of houses to rent, as also all announcements concerning private business, commercial announcements, posters of theaters, and balls, etc., matters printed for the administrative departments, and the briefs published by advocates in pleading a case, may be printed without authorization.

ART. 23. All those who print, publish, and sell all kinds of pictures, engravings, medals, emblems and other things, must conform to the provisions of article 19. Such persons shall, in consequence, be liable to a fine of from 3 to 10 pounds, Turkish, if they print, expose, and sell pictures, engravings, medals, emblems, and other things, without being able to produce an authorization bearing bearing the official seal and delivered to them by the ministry of public instruction upon the concurring recommendation of the direction of the school of fine arts.

CHAPTER III.—OF FOREIGN PUBLICATIONS.

ART. 24. Pamphlets and books published abroad, the articles specified in article 23, and all printing materials, can not be introduced into the Empire without the authorization of the ministry of public instruction, at Constantinople, and of the local authorities in the provinces. In the same manner, books and other publications coming from the autonomous provinces can not be introduced into the other parts of the Empire without authorization.

ART. 25. Foreign books on arriving at the custom houses of the Empire shall be examined by the ministry of public instruction, at Constantinople, and by the local authorities in the provinces. If there be no objection to their introduction, one copy of such books shall be impressed with the official seal and returned to the custom-house to be delivered to the owner.

Nevertheless, the ministry of public instruction shall prepare a general list of books the entry whereof is permitted. This list shall be sent to all the custom-houses in order that they may permit to pass, without examination, the books found in such list, unless they shall be reprints.

CHAPTER IV.—CONCERNING COLPORTAGE AND THE SALE AND DISTRIBUTION OF PRINTED MATTER.

ART. 26. All book-sellers keeping shops, colporters, sellers, and distributors of pamphlets, pictures and other printed matter, as well as the workmen employed in printing offices, are obliged to obtain a *teskéré* from the prefect of the city, in Constantinople, and from the municipal offices in the provinces.

In case of necessity, the book-shops shall be inspected by the officers of police and by the inspectors of the ministry of public instruction and of the superintendency of the press.

ART. 27. Those who, in addition to the objects mentioned in article 22, sell, peddle, and distribute books, pamphlets, newspapers, portraits, illustrated writings, and other printed matter published or introduced into the Empire without authorization, shall be liable to a fine of from 3 to 10 pounds, Turkish.

ART. 28. Colporters, sellers, and distributors of newspapers and other periodical publications who cry aloud in the streets and public places to designate the matters contained therein, instead of merely announcing the titles of such newspapers and publications, shall be deprived of their license and shall be liable to a fine, according to the terms of article 254 of the penal code.

ART. 29. Those who peddle, sell, and distribute, knowingly or clandestinely, pictures and printed matter which is injurious and immoral, and published contrary to the provisions of the present law, shall be deemed accomplices of the authors and printers of such writings or printed matter, and besides the penalty which they shall undergo with them, they shall be interdicted from following their profession for the term of from one to three months.

CHAPTER V.—SHOW-BILLS.

ART. 30. With exception of the notices or posters of theaters and balls and those relating to special occurrences, such as marriages and deaths, it is expressly forbidden to post and to distribute notices in the streets and in the public places without having obtained permission to do so from the municipal authorities. Those violating this provision shall be liable to a fine of from 5 to 10 pounds, Turkish. In the case of the contents of the notices posted or distributed being contrary to law, the penalty incurred therefor shall be fixed and applied separately according to the gravity of the offense.

ART. 31. Notices or posters of public establishments, such as theaters and others, couched in other languages, must also give the translation in the Turkish language. Those contravening this requirement shall be liable to a fine of from 1 to 5 pounds, Turkish.

ART. 32. Professional bill-posters must provide themselves with a license, by applying to the prefect of the city or to the municipal authorities and making known to them their names, calling, nationality, civil status and domicile. Those contravening this requirement shall be liable to a fine of from 1 *medjidié* to 1 pound, Turkish. All those who, knowingly and openly or secretly, post prohibited notices, shall be deemed accomplices of the author of the offense.

CHAPTER VI.—PROCEDURE.

ART. 33. Proceedings relating to infractions of the present law belong to the courts, and shall be prosecuted on the suit of the public ministry.

ART. 34. The officers of justice, the functionaries of the ministry of public instruction and those of the censorship of the press are charged with making the declarations and complaints relative to the offenses committed against the provisions of the present law. Those functionaries shall draw up a *procès-verbal* relative to the offense which they allege and shall submit it to their superiors to be transmitted, in Constantinople, to the ministry of the interior, and in the provinces to the local authority. The imperial prosecutors shall bring actions upon the information produced to them in regard to these offenses by the ministry of the interior or by the provincial authorities.

ART. 35. Books, pamphlets and other writings printed and published without authorization, shall be immediately siezed and, with the exception of one copy only shall be placed under seal by the officer who shall have effected the seizure, by the police officer and by the owner, and provisionally deposited in the nearest police station or in the offices of the municipal authority. They shall, if need be, be removed and stored, under seal, in such place as may be appointed by the superintendency of the press. They can not be restored to their owner without an order from the ministry of the interior or the court.

ART. 36. The penalty to be pronounced against those who commit more than once the offenses specified in the present law shall, as a maximum, be higher than double the penalty herein fixed. All these persons shall be deemed old offenders who shall have committed another offense before the expiration of a year's counting from the date of their condemnation for the offenses in question.

ART. 37. The penalties prescribed by the present law only relate to the non-execution of the clause concerning the obtainment of previous authorization. Any other crime or offense committed through printing and publishing or importing without authorization books, pamphlets, and other writings, shall be liable to the special penalties prescribed by the laws of the Empire.

ART. 38. The suppression shall be decreed of only the injurious pages of the books or pamphlets the authors or printers of which shall have been condemned to suffer penalties on account of the printing and publication of such works. In the event of such writings being radically injurious, they shall be completely destroyed. The writings and objects specified in articles 22 and 23 and which are recognized as injurious, shall be confiscated.

ART. 39. All proprietors of printing offices who have already obtained the necessary authorization shall receive, without expense, a new permit of authorization. Proprietors of printing offices, being Ottoman subjects, who exercise their profession without authorization and who shall apply, within a month from the date of the promulgation of the present law to the competent authority to be furnished with a permit of authorization, shall receive the same upon payment of the fees fixed in article 9.

A *teskéré* of permission shall be issued, until the expiration of the aforesaid term, to all book-sellers, founders and sellers of type and printing materials, colporters, compositors, dealers and distributors, who may not be furnished with such authorization. The law shall be enforced in respect of all those who, on the expiration of said term, may not have conformed to the prescriptions of the present law.

ART. 40. The ministries of the interior, of justice, and of public instruction, are charged with the enforcement of the present law.

ART. 41. The printing regulations dated 20th Djémazi-ul-ewel 1273 (January 21, 1858) and contained in the 2d volume of Destour's collection, are hereby annulled.

CONSTANTINOPLE, *9th Djémazi-ul-ewel*, 1305 (*January* 10, 1888).

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[Inclosure 2 in No. 87.]

*The legation of the United States to the ministry of foreign affairs.*

*Note verbale.*] UNITED STATES LEGATION,
*Constantinople, June* 6, 1888.

The legation of the United States is very much surprised to learn of the publication of a new law in respect to printing offices, of which it has received no previous official notice.

It entertained the hope that the Sublime Porte, heretofore so courteous to the foreign missions, would send it such notice, as well as every other regulation which is of interest to foreigners, especially as article 5 of the new law provides for certain things to be done by the embassies and legations without having consulted them.

Disappointed in this regard, this legation can no longer be silent on the subject of the publication of a law which conflicts with existing international agreements and violates acquired rights.

In reality the capitulations and the treaties of commerce contain no restriction upon foreigners in Turkey as to the free exercise of their trade or profession.

This principle has been recognized by the Sublime Porte at all times, and especially in a note from his excellency Aarifi Pasha, September 27, 1883, where he says, "Evidently no restriction would be placed upon the liberty of strangers to choose and exercise in Turkey the professional or industrial occupations, a liberty which will continue in the future as in the past."

The new law regulating printing offices conflicts entirely with these agreements,

since it forces the printer to relinquish completely the prerogatives and immunities above referred to.

It even requires that such relinquishment shall be confirmed by the respective embassies and legations to which the printers are amenable.

This legation, while recognizing that the printing offices may be the subject of a special regulation, regrets to have to declare that it can by no means admit, without a previous understanding, the application of the new law to the persons under its jurisdiction, and still less to those who already possess printing offices established according to pre-existing international agreements.

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No. 1090.

*Mr. Bayard to Mr. Straus.*

No. 115.] DEPARTMENT OF STATE,
*Washington, June* 28, 1888.

SIR: I have received and read with much interest your dispatch No. 87, of the 8th instant, reporting the new law for the regulation of printing offices in the Ottoman Empire, which has been promulgated without consultation with the foreign missions at Constantinople, and the action taken by the diplomatic body in respect of such law in so far as it assumes to regulate and limit the rights of foreign printers and to invoke the co-operation of the foreign legations towards the enforcement of said law.

The *note verbale* addressed by you to the imperial ministry for foreign affairs under date of the 6th instant has my approval.

You do not advise me whether there are now any printing offices in Turkey owned or managed by citizens of the United States which would come within the prescriptions of the law in question; but in view of the extended educational and missionary interests under American direction in the Empire, I assume it to be desirable that no privilege of our citizens in this regard should be foregone, and that in printing, as in any other commercial or mechanical pursuit, it shall ever be open to our countrymen—in the words of Aarifi Pasha's note of September 27, 1883, which you quote—

To choose and exercise in Turkey the professional or industrial occupations, a liberty which will continue in the future as in the past.

The objectionable provision of the new law regulating printing offices, in so far as concerns foreign citizens or subjects engaged in printing, is found in the second paragraph of article 5, and reads as follows:

Nevertheless, a foreigner shall not be permitted to set up a printing office, except he shall furnish a declaration, legalized by the embassy or legation of his country, whereby he shall never be able to take advantage, in his profession as a printer, of the privileges and immunities belonging to foreigners; that is to say, that he shall accept, the case arising, such proceedings in regard to himself and his printing offices as are followed in regard to Ottoman subjects.

This proposition is not new. The legislation of various countries of Spanish America, such as Mexico, Venezuela, and Peru, has sought to establish that a foreigner, while continuing to be a subject or citizen of the country of his allegiance, may by his own act waive or forego the right to invoke the diplomatic protection of that Government in case of alleged injury. This position whenever taken up has been consistently opposed by the United States. When the Mexican law assumed to prescribe that the omission of a foreigner to register as an alien deprived him *ipso facto* of the right to invoke the treaties and conventions

existing between his country and Mexico, and of the right to seek the protection of his own Government, this Department announced that such a law "can not disturb or affect the relationship existing at all times between this Government and one of its citizens. The duty is always incumbent upon a Government to exercise a just and proper guardianship over its citizens whether at home or abroad. A municipal act of another state can not abridge this duty, nor is such an act countenanced by the law or usage of nations." (Foreign Relations, 1885, p. 576.) When the railway laws of Mexico and the laws of contracts of several other American states prescribe that renunciation of all claim to protection as a foreigner under international law or treaties is to be the condition precedent to taking service or entering into contract with the foreign Government, and in so far as such service or contract is concerned this Government has promptly maintained that the condition is necessarily void, and that it is not competent to a citizen to divest himself of any part of his inherent right to protection or to impair the duty of his Government to protect him. He may conclude his rights in such regard by ceasing to be a citizen, for that is the accepted doctrine of expatriation, but he may not remain a citizen and withdraw himself or be withdrawn under the operations of the municipal law of another country from the rights and duties of citizenship.

The above-quoted provision of the Turkish printing law of January 10, 1888, appears to be even more objectionable and contrary to the unassailable principle for which we contend than any of the Spanish-American legislation to which I refer, for it assumes to invest the individual renunciation of his personal rights with the sanction of his legation, and to make the foreign Government, through its instructional representative, in some sense a consenting party to the supposed renunciation. Holding, as we do, that the individual act is necessarily invalid *per se*, this Government could certainly not intervene in any way to invest such an act with a show of validity.

It is confidently trusted that the dignified and timely remonstrance of the foreign representatives at Constantinople against this very objectionable law will have borne good fruit, and that no further action on your part may be necessary, but if the position assumed in the *note verbale* is controverted, or if the international rights of any citizen of the United States should be invaded, this instruction will serve to suggest the further lines of argument you may pursue in conference with your colleagues of the diplomatic body or in discussion with the Turkish foreign office.

I am, T. F. BAYARD.

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No. 1091.

*Mr. King to Mr. Bayard.*

No. 105.] LEGATION OF THE UNITED STATES,
*Constantinople, September* 1, 1888. (Received September 19.)

SIR: I inclose for your information a copy of a collective note sent to the Sublime Porte in July, 1887 (signed by all the heads of foreign missions), concerning the execution of consular judgments; a copy of the reply made by the Porte with sub-inclosure.

This note (from the Porte) is to be considered by the different embassies and legations, and should any reply be sent to the Porte a copy will be forwarded to you.

I think the disposition is to accept as satisfactory this regulation of the Porte, judging from conversations with a few others more interested in the matter than this legation.

I have, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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[Inclosure 1 in No. 105.—Translation.]

*Collective note to Sublime Porte.*

No. 7.] JULY, 1887.

In conformity with the circular of the minister of foreign affairs of the 20th of March, 1880, the office of execution at the first tribunal of commerce is in charge, as heretofore, with the judiciary executions of the former kitabet.

This condition was to continue until an understanding was arrived at between the Sublime Porte and the foreign missions on the regulation relative to the execution of judgments.

Without taking into consideration the assurances contained in the before-mentioned note the minister of justice wants to constrain foreigners who are bearers of judgments issued from the consular tribunals and to be executed upon real estate, to seek the execution exclusively before the civil tribunals.

No understanding having as yet been arrived at, the undersigned hope that the Sublime Porte, informed of this modification of the previous convention, will kindly intervene with the ministry of justice in order to prescribe to the office of execution of the tidjaret to carry out the requests presented under the shape of takrirs by the foreign missions for the execution of the judgments of the consular tribunals to be executed by way of attachment on real property.

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[Inclosure 2 in No. 105.—Translation.]

*Said Pasha to Mr. King.*

SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS,
*July* 16, 1888.

MONSIEUR LE CHARGÉ D'AFFAIRES: I have had the honor duly to receive the collective note that the heads of the foreign missions kindly addressed to me on the 14th of July, 1887, relating to the mode of executing the judgments issued by the consular tribunals.

On receipt of this note I placed myself in correspondence with my colleague of the department of justice, and to-day I have the honor to transmit to you herewith a copy of the instructions that department has just forwarded to the provincial judiciary authorities, in which the formalities to be fulfilled, when the execution of a judgment is demanded, are set forth.

Accept, etc.,

SAID.

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[Inclosure 3 in No. 105.—Translation.]

*Regulation of Sublime Porte as to execution of consular judgments.*

In the case of the demand for sale of real property belonging to a foreign subject for the satisfaction of a debt due by such foreign subject to another foreigner, in accordance with a sentence pronounced in a consular court, it is the custom to refer to the Ottoman courts according to the third article of the law relating to the acquisition of real property for the execution of the necessary measures, but it is found necessary that some instructions should be given with a view to the general observance of the necessary course of action.

First. The sale of the real property of the party against whom sentence has been given rests with the president of the civil court who has the right to execute [decrees in such matters] in the place which is the consulate pronouncing the sentence.

Second. The sale of the property will be asked for by the creditor in a petition addressed by him to the president [of the civil court].

As it will not be understood from the petition alone whether the decree of the consulate ordering the sale of the aforesaid property is definitive or not, in order that no

mistake may arise in the steps taken, the decree whose execution is requested will be inclosed in a takrir from the consulate containing a note to the effect that execution is necessary and will be sent with the petition to the president [of the court]. Thus, as it will be necessary hereafter in the mode of execution of such consular decrees to conform to these principles, the present note has been drawn up and forwarded in a printed copy to the presidents of the various courts in order that the requisite steps may be taken in such cases.

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## No. 1092.

### *Mr. King to Mr. Bayard.*

No. 109.] LEGATION OF THE UNITED STATES,
*Constantinople, September* 11, 1888. (Received October 1.)

SIR: In regard to the eviction from his house of the consular cavass, at Jerusalem, about which your instructions No. 84, of 17th March last, No. 85, of 20th March last, and No. 104, of 31st May last, had been received, I sent a dispatch to Mr. Pringle, the consul general, of which I inclose a copy. I likewise inclose a copy of Mr. Pringle's reply, which I have just received.

The Turkish authorities in making this ejection doubtless acted in an unwarranted manner, for which some redress could have been obtained, but Mr. Straus, as he informed me, gathered from Mr. Gillman, consul at Jerusalem, that it was, perhaps, better to drop the matter, and this is probably the reason why Mr. Straus did nothing further at the Porte about it.

Considering the lapse of time and the present uncertainty about any satisfactory redress, I shall follow the suggestion of Mr. Pringle and take no further action unless otherwise instructed by you.

I have, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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[Inclosure 1 in No. 109.]

*Mr. King to Mr. Pringle.*

No. 79.] UNITED STATES LEGATION,
*Constantinople, August* 11, 1888.

SIR: I gathered from Mr. Straus, before his departure, that Mr. Gillman, consul in Jerusalem, desired nothing further done in reference to the eviction of his cavass from his house.

I should like to know whether this is the case; if not, what is the present status of the affair?

I have, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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[Inclosure 2 in No. 109.]

*Mr. Pringle to Mr. King.*

No. 147.] CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Constantinople, September* 10, 1888.

SIR: I beg leave to inclose a copy of Mr. Gillman's No. 64, of August 24, 1888. It is my opinion that no further action should be taken with reference to the matter referred to therein, owing to the lapse of the time since the cavass was ejected from

his house. The delay in taking action was caused doubtless by a verbal conversation had between Mr. Straus and Mr. Gillman, in which I understand Mr. Straus was under the impression Mr. Gillman wished no further action taken.

I am, etc.,

D. LYNCH PRINGLE,
*Consul-General.*

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[Inclosure 3 in No. 109.]

*Mr. Gillman to Mr. Pringle.*

No. 64.] CONSULATE OF THE UNITED STATES,
*Jerusalem, August* 24, 1888.

SIR: Referring to your No. 51, of the 13th instant, I have the honor to state that Mr. Straus, requesting me to write him unofficially respecting further facts in the case of the consular cavass, I duly complied, under date of May 31 last, informing him that the wife of the cavass was greatly injured in her health by being put out of the house under the circumstances (she was *enceinte* at the time), and had since suffered from the shock; and that I considered the local Ottoman authorities had exceeded their powers in carrying out the decree without the intervention of the consulate, or its official notification of the decision of the Turkish court and the execution of the decree.

As our legation has now the entire facts of the case in its possession, I leave to Mr. King's judgment to decide what action should be taken in the matter.

I am, etc.,

HENRY GILLMAN,
*Consul.*

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No. 1093.

*Mr. King to Mr. Bayard.*

[Extract.]

No. 112.] LEGATION OF THE UNITED STATES,
*Constantinople, September* 18, 1888. (Received October 6.)

SIR: On the arrival of Proios (referred to in dispatches No. 68, of April 5 last, and No. 71, of April 30 last), I received from the consul-general a request for the evidence against him. I at once sent a note to the Porte, to which I received no reply. A second request from the consul-general was followed by a second note to the Porte, to which also no reply was made. Having received a third dispatch from the consul-general, in order to give the Porte no cause of complaint I went in person on August 13 to see the minister of foreign affairs.

In this interview it was clear to me that there was no intention of presenting the evidence against Proios.

I made to the minister, in a clear manner, the explanation stated in my No. 80 to the consul-general, who, on receipt of this information, released Proios, as stated in his No. 140 to me.

Before the above interview with the minister of foreign affairs certain members of the sanitary office had requested from the consul-general permission to talk with Proios. To this the consul-general assented, provided that he (the consul-general) should be present at the examination; but Proios refused absolutely to answer any such questions, but stated repeatedly that he was ready to be tried by the consul-general.

Shortly afterwards I received a note from the Porte, wherein the minister of foreign affairs requests an examination of Proios by the sani-

tary administration, although I had explained to him that the consul-general could not force Proios to undergo such; and that Proios had positively refused any and all such examinations and conversations.

I sent a copy of this to the consul-general, mostly as a matter of record.

I have recently received a second note from the Porte, repeating its request.

To these notes I replied in writing.

It was not for me to pronounce upon the guilt or innocence of Proios. I have done nothing to shield him from justice; but at the same time I have tried to protect the American citizen in accordance with our treaty rights, not only as a matter of justice toward him, but for the bearings of the case on Article IV of the treaty of 1830.

The matter is now in a manner ended, as I regard it.

Hoping that my action will meet your approval,

I have, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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[Inclosure 1 in No. 112.]

*Mr. Pringle to Mr. King.*

No. 132.] CONSULATE-GENERAL UNITED STATES OF AMERICA,
*Constantinople, July* 16, 1888.

SIR: I beg leave to inform you that Hercules Proios, claiming to be an American citizen, has been turned over to me by the Russian consul-general. The Russian consul-general informs me that charges will be made against him by the Turkish Government. The said Proios was arrested the 18th day of last December in Russia and claims to have been subjected to very cruel treatment at the hands of the Russian authorities; I would therefore ask that the charges be made as soon as possible.

I am, etc.,

D. LYNCH PRINGLE,
*Consul-General.*

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[Inclosure 2 in No. 112.]

*Mr. King to Said Pasha.*

No. 34.] UNITED STATES LEGATION,
*Constantinople, July* 17, 1888.

EXCELLENCY: I have the honor to inform you that Hercules Proios, referred to in the *note verbale* of the Sublime Porte of 23d ultimo, has been delivered to the consul-general of the United States, who desires that the charges against Proios be at once made. I therefore respectfully request you to have the necessary steps taken for the presentation of the evidence against said Proios.

Accept, excellency, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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[Inclosure 3 in No. 112.]

*Mr. Pringle to Mr. King.*

No. 136.] CONSULATE-GENERAL OF UNITED STATES OF AMERICA,
*Constantinople, August* 4, 1888.

SIR: I beg leave to call your attention to the fact that Mr. Proios still remains in prison, and that no charges have been made against him other than those made in the *note verbale,* copy of which you inclosed me. As regards Mr. Proios' citizenship I

have had two interviews with the chief of the bureau of nationality, and I fail to find the slightest ground upon which the Imperial Government can claim Proios as an Ottoman subject. This, however, does not affect Mr. Proios' liberty, as he certainly can not be kept confined pending any discussion as to his nationality.

I beg leave, therefore, to notify you that unless specific charges are made against Mr. Proios in a very short time I shall feel constrained to set him at liberty. I request you give this matter your immediate attention.

I am, sir, etc.,

D. LYNCH PRINGLE,
*Consul-General.*

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[Inclosure 4 in No. 112.]

*Mr. King to Said Pasha.*

No. 35.] UNITED STATES LEGATION,
*Constantinople, August* 6, 1888.

EXCELLENCY: On the 17th ultimo, in my note No. 34, I had the honor to address you and ask for the production of the evidence against H. A. Proios.

Mr. Pringle, the consul-general, informs me that it is now eight months since Proios was arrested and imprisoned, and that according to our laws he can not continue to retain him, and that in one week from to-day he will consider himself bound to release him unless evidence be brought against him. I therefore respectfully ask for your immediate attention to the matter.

Accept, excellency, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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[Inclosure 5 in No. 112.]

*Mr. Pringle to Mr. King.*

No. 138.] CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Constantinople, August* 13, 1888.

SIR: I beg leave to notify you that Mr. Proios has been in jail for four weeks to-day. You will therefore understand that I am constrained to release him unless specific charges be forwarded to me to-day. You mentioned to me verbally that it was your intention to see the minister of foreign affairs to-day. I will expect you to send me the charges by this afternoon if they be made, otherwise the man will be set at liberty to-morrow morning. I received an unofficial note from the British consul-general informing me that they thought he was going insane; this, however, I find to be not the case, but the man's health is certainly suffering from his confinement.

Hoping it will suit you to give the matter your immediate attention,

I am, sir, etc.,

D. LYNCH PRINGLE,
*Consul-General.*

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[Inclosure 6 in No. 112.]

*Mr. King to Mr. Pringle.*

No 80.] UNITED STATES LEGATION,
*Constantinople, August* 14, 1888.

SIR: In my No. 78 of 9th instant I informed you of having made two applications to the Sublime Porte for the evidence against Proios, and on receipt yesterday of your No. 138 of 13th instant I went in person, as a matter of courtesy to the Ottoman Government, to see the minister of foreign affairs about it.

I explained to him why Proios can not longer be detained without evidence against him, but the minister desires him to be delivered to the Turkish tribunals for trial.

I explained to him that according to the treaty of 1830 he must be tried by you, and that at your hands he would receive punishment according to the evidence. But I understood from him that he is not going to bring before you evidence against Proios, thus admitting the interpretation which my Government puts upon article 4 of the treaty of 1830.

I have the honor, etc.,

PENDLETON KING,
Chargé d'Affaires ad interim.

[Inclosure 7 in No. 112.]

*Mr. Pringle to Mr. King.*

No. 140.] CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Constantinople, August* 16, 1888.

SIR: I beg leave to acknowledge your No. 80, of August 14, in which you inform me that you have seen the minister of foreign affairs, and that he informed you they would not produce evidence against Proios, and that he further desired that Proios be turned over to the Turkish Government for trial. As I do not admit the right of the Turkish Government to try Mr. Proios, or any other American citizen, and as Mr. Proios had been in jail over four weeks, I felt it my duty to discharge him immediately on receipt of your dispatch. Mr. Proios is bound over on his own recognizance, however, to answer any charges that may be brought against him hereafter.

I am, sir, etc.,

D. LYNCH PRINGLE,
*Consul-General.*

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[Inclosure 8 in No. 112.—Translation.]

*Said Pasha to Mr. King.*

SUBLIME PORTE,
MINISTRY OF FOREIGN AFFAIRS,
*August* 16, 1888.

Mr. CHARGÉ D'AFFAIRES: In answer to the two notes you kindly wrote to me on the 17th of July and the 6th of August, Nos. 34 and 35, I must inform you that before presenting the evidence against Proios the sanitary administration thinks proper to ask him some questions in an administrative way.

I venture, consequently, to renew the request that the said administration has already made to the consul-general for the appearance of Proios before the special commission appointed to that effect.

Accept, etc.,

SAID.

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[Inclosure 9 in No. 112.]

*Mr. King to Mr. Pringle.*

No. 87.] UNITED STATES LEGATION,
*Constantinople, August* 31, 1888.

SIR: In connection with my No. 80 of 14th instant, I inclose a copy of a note from the Sublime Porte in regard to the evidence against Proios.

The Porte was informed by me that Proios refused to give information to the sanitary administration or to any one except on trial, and that you had no power to enforce him to do so.

The real state of the matter as regarded by the Porte having been given in my No. 80, of 14th instant, this note is sent to you mostly as a matter of record.

I have, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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[Inclosure 10 in No. 112.—Translation.]

*Said Pasha to Mr. King.*

SUBLIME PORTE,
MINISTRY OF FOREIGN AFFAIRS,
*September* 15, 1888.

Mr. CHARGÉ D'AFFAIRES: I have the honor to remind you of my note of the 16th of August last, and to request you to be kind enough, in conformity to the demand contained therein, to have Proios appear as soon as possible before the commission charged by the international council of health to examine his affair.

Accept, etc.,

SAID.

[Inclosure 11 in No. 112.]

*Mr. King to Said Pasha.*

No. 43.] UNITED STATES LEGATION,
*Constantinople, September* 17, 1888.

EXCELLENCY: In reply to the two notes of August 15 and 16 instant, which your excellency has sent me in regard to Proios, I have the honor to say that before I had the interview with you on August 13 in reference to the presentation of the evidence against said Proios, a request from certain members of the sanitary office had already been made to the consul-general of the United States to allow Proios to be examined by them. The consul-general gave his consent on condition that he (the consul-general) should be present; to this they assented. But in presenting the matter to Proios himself he refused, and yet refuses to submit to any examination whatever by the sanitary commission, but expressed a perfect readiness to be brought to trial before the consul-general; but the consul-general has no power to force Proios to any examination whatever by said commission, but stands ready to punish Proios according to the evidence presented against him.

In my interview with your excellency on August 13, you asked that he should be brought before the Turkish tribunals, and gave me to understand that there was no probability of your presenting the evidence before the consul-general.

I would again call the attention of your excellency to Article IV of the treaty of 1830, under which my Government firmly claims the right to have him and all such cases tried by its own consuls. For the reasons stated in my note to your excellency, No. 35, of the 6th ultimo, and more fully in our interview of 13th ultimo (namely, that under our laws a prisoner can not be detained without evidence, and that said Proios had already been nearly eight months in prison), no evidence having been presented against him, the consul-general bound him over in his own recognizance and released him.

Accept, excellency, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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## No. 1094.

*Mr. Bayard to Mr. King.*

No. 134.] DEPARTMENT OF STATE,
*Washington, September* 21, 1888.

SIR: I transmit for your information and files a copy of a protest from H. A. Proios, dated the 24th ultimo, in his case.

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 134.]

*Mr. Proios to Mr. Bayard.*

CONSTANTINOPLE, *August* 24, 1888.

SIR: I inclose herewith a letter of protest to Mr. Pendleton King, United States chargé d'affaires *ad interim*, and also a statement regarding my case prepared for publication, as I was informed by the United States authorities here that I might expect my citizenship to be denied to me by the State Department.

I desire to have positive information from you as to such pretenses, and I therefore send the inclosures for your consideration, hoping for an immediate reply.

I have, etc.,

H. A. PROIOS.

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[Inclosure 2 in No. 134.]

*Mr. Proios to Mr. King.*

SIR: Having been a victim of proceedings on the part of the United States officials in Turkey and Russia, who state that they have acted in conformity with instruc-

tions from the State Department, and the said authorities seem determined to pursue a course most dishonorable and discreditable to the United States as well as unconstitutional and to me most damaging and ruinous, I deem it my duty to place the facts through you before the people of the United States, who are the best guardians of the nation's honor and dignity, as well as their own sovereign rights guarantied by the Constitution.

Such a course is forced upon me, as I find my case does not vary practically as to citizenship from that of numerous others, who, although less unfortunate than myself, have been refused passports and recognition as citizens by the United States authorities at Constantinople, although their rights to citizenship and protection are unquestionable and have always been recognized previously to the past two years in every manner, with their names upon the consulate register, from which they have been struck without cause or justice.

The summary of my case is as follows: I am a naturalized citizen of the United States, born of Greek parents, and at the age of nineteen years went to England and from thence to the United States, where I remained for eight years, during which time I became a citizen of the United States in conformity with the laws of our country, and married an American lady.

My naturalization papers entitling me to such citizenship bear the date of the 14th of August, 1871, and the signature of the clerk of the circuit court of Chicago, Cook County, where I resided eight years, doing a good business.

In the year of 1873 I was advised by my doctor to take a trip to Europe on account of my bad health, and in consequence I started on a visit to my parents at Constantinople, where I arrived on the same year.

I recorded myself at the American consulate at Constantinople, as is usual upon arrival of American citizens.

In a short time thereafter I was offered a good position in the Turkish service as receiver of the sanitary office of Constantinople, and in consequence I took the place, which I held for a period of sixteen years.

In this position considerable sums of money were left uncollected from my hands sometimes for two weeks, and I had to insure the safe custody and delivery thereof when called upon.

Such facts were of course known, and in consequence under peculiar circumstances a deficit of 500 pounds resulted, but without any benefit to me.

This deficit was known to leading Turkish officials who benefited therefrom, with the further result that the directors of the sanitary commission were notified thereof with the censure resting upon me, and the final result that I was discharged from my position about the middle of May of 1887.

After my discharge, I remained in Constantinople until the 31st of July, 1887, and during which time I was advised by some friends of the practicability of doing good business on the sea of Azov as a shipping agent, and in consequence I took my passport from the American legation, signed by the Hon. O. S. Straus, and had such properly indorsed by the Russian consul at Constantinople, with all my papers in order and with good letters of recommendation from Messrs. Foscolo, Mango, Svorono, and other leading merchants of Constantinople, which place I left on the 31st of July and proceeded direct to Marianople, on the sea of Azov.

On arriving at the last-named place, I established myself as a shipping agent and carried on such business until the 3d of January, 1888. In the mean time I had cause to write to the United States minister at St. Petersburg regarding some intrigues and persecution against my business, to which I was subjected from the part of custom-house officials at that place.

By such communication the minister became duly advised of my citizenship, as I sent my passport in evidence thereof.

Without any notice whatever, on the 3d of January, 1888, the Russian police entered my rooms, seized my correspondence, documents, and all effects, and took me to prison.

On the following day I was taken before the head of the police, who examined my papers and declared all such in good order, but that he had positive instructions from the governor-general to send me to Odessa.

I asked what offense I had committed.

"None whatever against the laws of Russia, but I must hold you upon the accusation signed by the Turkish vice-consul of Berdianska, who accuses you of being a runaway Turkish subject under a false name, carrying a stolen American passport, and having robbed 5,000 pounds from the Turkish Government."

I protested against these accusations as absolutely false, and demanded "by what right and upon what grounds can you act in this manner, acknowledging as you do that I am an American citizen with my papers in order." His answer was that "superior orders force me to send you to Odessa."

I therefore telegraphed to and paid for a response from the American minister at St. Petersburg regarding my arrest, and requested him to obtain my release.

The only answer or action on his part was a dispatch saying, "show your papers,'

instead of protesting to the Russian authorities at St. Petersburg against my arrest, and having such to telegraph to the governor-general or other authorities at Marianople to release me, as the American minister knew that my papers were in perfect order as they had been submitted to him previously, as a letter from him to me will prove.

The Russian authorities of course paid no attention to such un-American and heartless inaction on the part of the American minister at St. Petersburg.

In consequence, my only alternative was to quietly submit to any torture or loss which might be in store for me as the result of being an American citizen in a foreign land, without a minister to even demand respect for his country, regardless of humanity and justice.

I next endeavored to make the best of my position by requesting the police superintendent to send me in charge of two policemen to Odessa, offering to defray all expenses.

The police superintendent, who fully recognized my American citizenship and who said he could not comprehend my arrest or its legality, wrote to the governor-general my request and offer, but he received the answer thereto that I must be sent at once to Odessa by land.

Following such orders, I was removed at once from the police station to the main prison, into a filthy, suffocating room containing ninety-five more prisoners, without any sleeping accommodation, closely packed together, receiving twice a day a kind of soup said to be made from the lights of cattle, with black paste for bread.

Under such conditions I existed until the 8th of January, when, with four other prisoners and under a guard of three soldiers, we left Marianople for Berdianska, where we arrived, after five days of great sufferings, walking from 25 to 30 versts each day, with the climate bitterly cold, the thermometer ranging at times 25 degrees below zero, with filthy pens for our sleeping places at night.

On arriving at Berdianska, the 13th of January, I had the luxury of being committed to the main prison with the honors of a convicted prisoner for the period of three weeks.

On the 22d of February I was started on another Russian pleasure trip of eight days before reaching Miletopole, during which time I had similar experiences and even worse hardships and sufferings than before. At this place I was kept twelve days, and subjected to the experience of having a large part of my clothing stolen from me by the prisoners.

From Miletopole I was sent by railway to Harkovo in iron bracelets, attached to another prisoner, in a wagon filthy beyond imagination, infested with vermin, and overcrowded with prisoners.

After twenty-four hours in this wagon we arrived at our destination, where I was kept ten days in the prison, from whence I was sent to another town called Elizabethgrad, where I remained for four days.

From Elizabethgrad I was sent to Balta by railway wagon along with other prisoners.

And *en route* we were subjected to a snow-storm and had to pass two nights in the wagon without any means of heating, and on arriving at the railway station walked 8 versts to the prison, where I was kept two days.

From thence I started for Odessa, where I at last arrived on the 8th of March, after two months and five days from the time of my arrest, supposing that at last I had reached a point where I would find my release by the proper intervention of the United States Government's representatives, the consul of Odessa, and minister at St. Petersburg.

On my arrival at Odessa I was at once visited in person by the American consul, Dr. Thomas Heenan, to whom I stated the whole of my case, and begged him to take action for my liberty. He first proposed to send me to Constantinople, but I protested, as my business would suffer from my absence from Marianople, where I wished to return at once. He then told me that he would do his best to obtain my liberty, but that I must have patience for a few days, as the Russian authorities moved very slowly in documentary affairs.

Three days after my arrival at Odessa I was taken before the police superintendent, who informed me that I was not going to be sent to Constantinople; that I must stay a few days in prison until the police made inquiries regarding my character, etc., and I was again put back into the same dark, damp cellar.

Imprisoned for a month in this cellar, sleeping on the stones waiting for my release, and without hearing from the American consul, I wrote to him on the 19th of May insisting upon my release, after which I received the following response:

"H. A. PROIOS, Esq.,
"*Odessa Main Prison:*

"I have to acknowledge the receipt of your letter dated May —, and in reply would say that this consulate has done everything possible to bring the question of your nationality, as far as the Russian Government is concerned, to a speedy conclusion.

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merican passport in your posses-
American citizenship is conceded
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any satisfactory reason for so

with whom I am in correspond-
facilitate matters for you, and
ruel delay must be sought for

upon either by this consulate
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officially and personally, and rest
an American citizen have not nor

"TH. E. HEENAN,
" *United States Consul.*"

afflicted with rheumatism, and I was re-
and retained for two months, expecting
of it I wrote again to my consul and

your letter dated June 21, and in reply beg
other letters from you, which I did not
nish on another occasion.
I have stated to you before, viz, that I
and if of late I have seemed to be in-
in reality such was not the case. The
merican citizenship, and agreed to send you
has not been carried out I do not know. I
and will communicate with you when the

"THOS. E. HEENAN,
" *United States Consul.*"

three days from the time of my arrest, during
and treatment as above stated, and it
informed by the American consul at Odessa
between him and the governor-general of
there in company of a police officer, who
Constantinople.
consul's letter of July 5, where he says, "In
two more letters from you, which I did
I will furnish on another occasion," I
he had received from Washington that
instructions that he (the American con-
me."
Pringle, the United States consul at Constanti-
actually taken steps with the State Depart-
States authorities at Constantinople, or
while I was kept in prison in Russia for
representatives abroad, to refuse me protection,
authorities' hands from the Russian prison.
away from Turkey (which I refuse to do),
him that I would appear for trial.
on the 14th of July and arrived at Con-
delivered into the hands of the Russian consul,
under charge of a cavass to the American
consul, Mr. Pringle, asked, along with other
I believe my reply was, "At present, no."
jail," and I was forthwith conducted to the

the consul, referring to the question regarding my

return to America, and stating that it was my desire to return to America the moment I should have the means to do so.

On the 22d of July Mr. Pringle, the consul-general, called and said, "You must go with me to the Turkish nationality bureau, where they will ask you a few questions regarding your nationality."

Upon our arrival at this bureau we met Mr. Gargiulo, the dragoman of the United States legation, and the disreputable proceedings of discrediting my American citizenship were commenced by the United States Government. Hereby the United States Government was made to appear in the despicable position of not even begging of Turkey for the constitutional and recognized rights of her citizens and the honor of our national institutions, but as being a party to the most discreditable and dishonorable transaction of which any government might be guilty.

Upon leaving the nationality bureau Mr. Gargiulo remained, and I was returned to prison.

On the same day Mr. Pringle proposed to me to settle the matter quietly with the Turkish Government by the payment of a sum of money, which proposition I refused.

The same proposition was made to my father, and I have heard that it has been suggested that I should settle the matter by monthly installments.

I wrote to the consul on July 30, protesting against my imprisonment and asking release on bail.

In consequence, Mr. Pringle, the consul-general, called upon me the same day, and asked me regarding the bail, which, from the fact of the persons not being American citizens, was refused, and £500 in cash demanded. I stated that I had no money and demanded my trial.

I also remarked to the consul-general that instead of keeping me one month in prison he should have given notice on my arrival here to the Turkish authorities to bring forward whatever charges they had against me, and if they did not do that, I should be liberated.

A few days later I again by letter protested against my imprisonment to the consul-general as an illegal proceeding, but received no response.

Seeing that there was no hope of any protection from the part of the consul-general, I addressed a letter to Mr. Pendleton King, United States chargé d'affaires *ad interim*, protesting against my illegal and indefinite imprisonment, demanding my release, in answer to which I received from him the following reply: *

On the 14th of August, I was taken to the consulate and asked to sign a bond to appear at the pleasure of the consul and was then released, being told by the consul-general that he had written to Washington for instructions whether to consider me an American citizen or not.

In consequence of this statement from Mr. Pringle I called upon Mr. Pendleton King, United States chargé d'affaires *ad interim*, on the 17th of August, and found even Mr. King refusing me protection, waiting for an expected answer from the State Department denying my citizenship.

On the following day, after having taken advice and having the question fully examined, I wrote a letter to the United States chargé d'affaires exposing the injustice done to me as well as my constitutional rights and my rights under the treaty of 1830, between the United States and Turkey as an American citizen, and requesting him to notify the Turkish authorities that I was prepared to meet the charge they had to bring against me.

I furthermore requested of Mr. Pendleton King that he would notify the State Department the full facts of my case and send my protest forthwith.

I have, however, as yet no response, but only found myself urged by my own authorities to run away with a false and fraudulent accusation resting against me, and I am told by Mr. Pringle that he knows "the State Department will (in answer to his letter) refuse to recognize me as an American citizen."

In answer to such statements from the consul-general I stated that I should not permit my citizenship to be questioned, much less destroyed, and that it is not in the power of the consul-general or the State Department to deprive me of my citizenship and rights thereunder.

I demand in the cause of humanity and justice, and for the honor and dignity of the United States, that justice shall be given to me.

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* Reply not inserted by Mr. Proios.

Every condition to which I would be entitled under these articles, if resident in the United States, I am entitled to here under the treaty of 1830; for it is evident from article 14, before quoted, that even the States themselves constituting the United States are without the power to destroy citizenship and the privileges and rights thereunder, for the Constitution actually enforces them to give justice.

How, therefore, can a United States official, the mere servant of the United States people, every one of whom has sovereign rights within themselves, guarantied by the Constitution, which no American is bold enough to denounce, refuse me justice or undertake to denaturalize me or discredit my citizenship for the purpose of refusing me protection?

My citizenship and the rights I have acquired thereunder belong to me under the Constitution of the United States from the fulfillment of every obligation on my part, as prescribed by that instrument and the laws relating to naturalization, over which Congress has control, as provided for in paragraph 4 of section 8 of the Constitution.

Such control is to provide for the establishment of "a uniform rule of naturalization." It is therefore evident that Congress can alone alter that rule, without it may be that the Constitution of the United States shall be amended, as provided for in article 5 thereof, whereby it is required that any amendment shall be "ratified by the legislatures of three quarters of the several States, or by conventions in three quarters thereof, as the one or the other mode of ratification shall be proposed by Congress."

Such fact makes it perfectly clear that there is no probability of a change in the Constitution of the United States, destroying the sovereign rights of the people with and in whom the Government is founded, nor is it any more likely that the people and the Government of the United States will permit the citizens of the United States in foreign lands (be they natives or naturalized) to be persecuted, discredited, injured, and placed beyond protection, and in such a contemptible position as even the small Kingdom of Greece would disclaim and resent.

What could be more discreditable to the United States, or what meaner thing could a United States official do than to discredit the nationality of a citizen abroad, even if such action should not throw such citizen as an outcast to lawless barbarians.

Beyond the cited safeguards to Americans against any presumption in authority upon the part of officials, or even the presumption of authority, or the mistakes of the legislative bodies or the executives of the United States, the provision exists in the Constitution for perpetuating itself by saying, as in article 6, paragraph 2:

"That this Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

To even further guaranty and perpetuate the Constitution, which is the basis and charter of the sovereign rights of the people, against destruction or changes, other than by three-quarters of the States, which probably represent to-day 90 per cent. of the entire people of the country, the allwise provision is made in the Constitution that in the laws of the United States, its officials, treaties, and all else shall be submitted to this Constitution, and be judged for constitutionality by the supreme law, the one supreme court, as section 2 of article 3 sets forth.

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State or the citizens thereof and foreign states, citizens, or subjects."

I wish you to distinctly understand that I am prepared and anxious to meet any charge the Turkish officials can justly or otherwise bring against me before the United States authorities here in the manner prescribed by the Constitution and laws of the United States and the treaties between the United States and Turkey; and I request you to so notify the Turkish authorities thereof.

I further request you to notify the State Department to this effect and of the full facts of the case, and to state that I was naturalized in Illinois, and have all papers therefore in proper order, and that I never have had any intention of relinquishing my citizenship, and shall never do so.

I will prepare for you a summarized statement of the facts of the case if you desire, and you may forward such to the State Department, along with the facts set forth above, and this my protest against denationalization and refusal of justice.

I have, etc.,

H. A. PROIOS.

No. 1095.

*Mr. King to Mr. Bayard.*

No. 115.] LEGATION OF THE UNITED STATES,
*Constantinople, September* 24, 1888. (Received October 8.)

SIR: I inclose for your consideration a copy of a dispatch from our consul at Jerusalem concerning the threatened expulsion of three Jews from Jaffa who arrived furnished with American passports.

On the receipt of the telegram spoken of by Mr. Gillman, I had requested the sending of a telegram by the minister of foreign affairs, and later (September 8) of another by the Grand Vizier, which I hope stopped the efforts to expel them. I have asked the consul-general for information about the present state of the matter.

I inclose a copy of my note to the Porte on the subject, which I hope will meet your approval.

I have the honor, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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[Inclosure 1 in No. 115.]

*Mr. Gillman to Mr. Pringle.*

No. 66.] CONSULATE OF THE UNITED STATES,
*Jerusalem, August* 30, 1888.

SIR: I have the honor to report that I have this morning telegraphed to our legation as follows: "Three Americans, with unvisaed passports, threatened with expulsion. Protest."

Fearing delay, the telegram was sent directly to the legation instead of through the consulate-general.

The occasion is as follows: Three citizens of the United States (Hebrews), viz, Meyer Freeman, Isaac Gliechman, and Jacob Reichmann, who arrived at Jaffa on the 20th instant from Port Said, were prevented by the police from proceeding to Jerusalem on account of their passports, issued by our Department of State, not bearing the visa of some Ottoman consulate abroad.

At the same time the commissary of police sent word to our consular agency at Jaffa that the aforesaid three citizens would be compelled to leave Palestine by the first steamer. All efforts of our consular agent that our citizens be permitted to pass and have their passports returned to them were in vain. The local Turkish authorities would not give up the passports, and insisted on expelling the bearers of them.

The result of my most urgent representations and protests with the Ottoman authorities in Jerusalem was simply the return of the passports, which were forwarded to me by our consular agent, Mr. Hardegg, on the 26th instant, with the expression of the belief that the owners would follow their passports the next day.

But in this Mr. Hardegg was too sanguine. One, indeed, of our aforesaid citizens, viz, Mr. Reichmann, evading the vigilance of the Jaffa police, escaped to this office, in Jerusalem, on the 27th instant, but the others, two old men, past seventy years of age, who were coming to die in the Holy City, are still held under the strictest police restraint as though they were the prisoners of the kaimakam of Jaffa. Two attempts have been made to expel them on touching steamers; and they were only rescued from the clutches of the police by the most energetic efforts of Mr. Hardegg, who again called personally on the kaimakam (28th instant) and obtained, with great difficulty, a respite of eight days subject to the order of the governor of Palestine, who was at this time absent from Jerusalem. This respite ceases on September 6 next, when the authorities are determined to expel those citizens.

All my most persevering protests addressed to the authorities here, both before and since the return of the governor, Raouf Pasha, have received the reply that they are acting under new instructions received from Constantinople.

In notes of the 29th and 30th instants, Raouf Pasha informed me, in reply to my most positive appeals, "that the action of the kaimakam of Jaffa, in expelling the

aforesaid three Jews, citizens of the United States, is according to an order from the Sublime Porte."

I have no doubt you will lose no time in communicating these facts to our legation, and that the proper action demanded by the urgency of the case will be taken. Meanwhile I am transmitting to the Department of State at Washington, a complete statement of the incident.

I am, etc.,

HENRY GILLMAN,
*Consul.*

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[Inclosure 2 in No. 115.]

*Mr. King to Said Pasha.*

No. 45.] UNITED STATES LEGATION,
*Constantinople, September 22*, 1888.

EXCELLENCY: Three American citizens arrived at Jaffa on the 20th ultimo, furnished with passports, which were taken from them on their arrival, and they were with difficulty saved by the consular agent of the United States from expulsion because they were Jews.

At the urgent representation of the United States consul in Jerusalem their passports were returned, but they were at last accounts held under the strictest police restraint.

The governor, his excellency Raouf Pasha, says that such action is due to instructions from the Sublime Porte.

I would recall to your excellency's attention the dispatch of Mr. Straus, No. 27, of May 17 last, for a statement of principles by which my Government is guided in reference to religious differences, and to *note verbale* No. 21, of February 23 last, regarding the proposed passport regulations of the Ottoman Government.

The detention or expulsion of these American citizens would be in violation of long-established rights, and their expulsion might lead to disagreeable complications.

I therefore ask your excellency to give immediate orders to allow these men to go where they will, without hindrance, in the full enjoyment of their rights and liberties as American citizens, and hereafter not to interfere with any other American citizens, whatever their religious creed may be, who arrive furnished with American passports, because a repetition of such an occurrence will doubtless lead to a stringent protest on the part of my Government.

Accept, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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## No. 1096.

*Mr. King to Mr. Bayard.*

No. 124.] LEGATION OF THE UNITED STATES,
*Constantinople, October* 5, 1888. (Received October 22.)

SIR: I inclose for your consideration a copy of a *note verbale*, received from the Sublime Porte, concerning the restoration of real property on the termination of the lease.

The note will be considered by representatives of the different embassies and legations here to determine whether it shall be accepted or not. I will report to you the action taken in the matter. I shall likewise wait for such action before replying to the Porte.

I have, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

[Inclosure in No. 124.—Note verbale.—Translation.]

*The ministry of foreign affairs to the legation of the United States.*

SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS,
*August* 2, 1888.

The ministry of justice complains that the consulates of foreign missions oppose the execution against their fellow-citizens of the appendix to Article II of the regulation on the contracts of lease, under pretext that it had not been officially communicated to them.

This refusal is the less justified as this provision is not contrary to the existing treaty stipulations. In fact, in virtue of this appendix, every real property which, at the expiration of the term of the contract duly legalized by a notary, is not delivered to its proprietor, is on the request of this latter, evacuated *ex officio*, without depriving, however, the proprietor or the tenant of the right of bringing their claim before the competent tribunal.

This procedure, destined to safeguard the interest of the proprietors, is as just as it is legal, and nothing opposes its being also applied to foreign subjects who are also to benefit from it as proprietors.

The ministry of foreign affairs is persuaded that the legation of the United States will recognize the justice of the preceding considerations and give the necessary orders so that no difficulty may arise to the execution of the appendix in question.

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## No. 1097.

*Mr. Rives to Mr. Straus.*

No. 140.] DEPARTMENT OF STATE,
*Washington, October* 15, 1888.

SIR: I desire to acknowledge the receipt of Mr. King's No. 115 of the 24th ultimo, relative to the threatened expulsion from Jaffa of three Jews bearing American passports and to approve his prompt and energetic intervention in their behalf with the Ottoman Government, which it is trusted will have proved successful.

For your information and to complete your correspondence in this matter, I herewith transmit a copy of the Department's instruction to the United States consul at Jerusalem, No. 36 of the 12th instant, upon the subject.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

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[Inclosure in No. 140.]

*Mr. Rives to Mr. Gillman.*

No. 36.] DEPARTMENT OF STATE,
*Washington, October* 12, 1888.

SIR: Your dispatches, Nos. 62 and 65, dated, respectively, August 30 and September 10, ultimo, have been received. They relate to the attempted expulsion from Palestine of three citizens of the United States—Meyer Freeman, Isaac Gliechman, and Jacob Reichman—who having arrived at Jaffa on the 20th of August last by steamer from Port Said, were prevented from continuing their journey to Jerusalem on the grounds that they were Hebrews, and that their passports, issued by the Department of State in July last, did not bear the visa of some Ottoman consul abroad.

It appears that their passports were taken from them (although subsequently returned), and they were notified that they would be required to leave Palestine by the first steamer. Through the efforts of the consular agent at Jaffa, Mr. Hardegg, their

attempted expulsion was deferred until September 6. One of the persons in question, Jacob Reichman, escaped, on August 27, from Jaffa, while Meyer Freeman and Isaac Gliechman (the latter accompanied by his wife) succeeded in evading the vigilance of the Jaffa police, reached Jerusalem on the 5th of September, and were at once placed under police restraint and threatened anew with expulsion. They were, however, offered their liberty on condition of your signing an assurance that they would remain in Palestine only three months, which you very properly refused to do. They were subsequently released in consequence, as would appear, of a perfunctory and irresponsible guaranty, on the part of a resident of Jerusalem, that they would quit Palestine as required. You had reported the case to our legation at Constantinople, and were awaiting the result, the persons in question remaining at liberty, and the date of their notified expulsion, September 6, having passed without steps being taken to effect their removal.

A report in their case has been received from Mr. King, chargé d'affaires *ad interim* at Constantinople, who writes, under date of the 24th ultimo (No. 115), that he had actively intervened with the Porte, and caused telegraphic orders to be sent the authorities at Jerusalem by the minister of foreign affairs and the Grand Vizier, which he hoped would stop the attempted expulsion.

Your course on the whole seems to have been proper, and the language employed by you to the Ottoman authorities, although very emphatic, may not have been unduly so in view of the slight amenability of the Turkish provincial officers to temperate reasoning or even to superior orders.

The question out of which this incident grows is not a new one. Under date of 2d March last, Mavroyeni Bey, the Turkish envoy at this capital, informed the Department that in view of the alleged inconvenience of the resort of numerous alien Israelites to Palestine for the purpose of business and residence, the Sublime Porte had decided to authorize the entrance of such persons only on the condition that they bear passports which shall "expressly state that they are going to Jerusalem in the performance of a pilgrimage and not for the purpose of engaging in commerce or taking up their residence there," that the passport so drawn up shall be duly *visaed* by Ottoman consuls, and that on arriving the holders shall be bound to provide themselves with "permits of sojourn" (*permis de séjour*) issued by the imperial authorities and couched in the same terms as the passports—the duration of such permitted sojourn not to exceed three months.

Mr. Straus was promptly directed to protest against such a measure. As you will see by the inclosed copies of our correspondence, stress was laid upon the total repugnance of the measure to the principles upon which our Government rests and which necessarily determine our treatment of citizens at home or abroad.

The impossibility of making any distinction as to our citizens based upon creed or race precludes any recognition of any curtailment of their treaty rights abroad on such grounds, and in entering into reciprocal stipulations for the mutual advantage and protection of our citizens abroad and aliens in the United States, no qualification of the sole condition of citizenship could be implied or imposed by the other contracting party without being expressly consented to by us.

No treaty has been entered into between the United States and Turkey to curtail the personal rights or liberty of our citizens, and no such curtailment can now be introduced into our conventional obligations at the will of one of the parties thereto. Still less can Turkey claim, as she has appeared to do, our assistance in enforcing a regulation in execution of her claim to apply a discriminatory treatment, the right to which we absolutely deny.

As explained in the Department's reply to Mavroyeni Bey and its instruction to Mr. Straus, the passports we issue can contain no declaration, expressed or inferential, of the creed of the citizens to whom they are issued, or certification of their purpose in going abroad. It is equally incompetent to the Department's agents abroad to make such statements, and still more so to limit the personal freedom of our citizens within their jurisdiction except by due process of law. The guaranty you were asked by the local authorities to give in respect of Freeman and Gliechman would have been expressly and inferentially obnoxious to all objections recited and therefore unlawful. Your refusal to comply with such a request is entirely approved. You can assume no inquisitorial functions in regard to the private and personal affairs of our citizens within your jurisdiction, and so far as their passports are concerned, your official duty is limited to affixing your *visa* as good for your consular district, and to endeavoring to secure for them, without discrimination, the treatment which law-abiding citizens are entitled by treaty.

A copy of this instruction will be sent, with transcripts of your dispatches, to Minister Straus, for his information.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

No. 1098.

*Mr. King to Mr. Bayard.*

No. 129.] LEGATION OF THE UNITED STATES,
*Constantinople, October* 22, 1888. (Received November 5.)

SIR: I inclose for your consideration a copy (in translation) of a *note verbale* received from the Sublime Porte in reply to Mr. Straus' note, No. 27, a copy of which was sent you with dispatch No. 80 of May 19 last, concerning the interference with Israelites going to Jerusalem. This note from the Porte will be considered by this legation and the English and French embassies, who acted together in the protest in May last.

I also inclose a copy of the Sublime Porte's reply to my note No. 45, a copy of which I sent you with my No. 115 on the 24th ultimo. This seems to me to be satisfactory.

I have, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

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[Inclosure 1 in No. 129.—Note verbale.—Translation.[

*The ministry of foreign affairs to the legation of the United States.*

SUBLIME PORTE,
MINISTRY OF FOREIGN AFFAIRS,
*October* 4, 1888.

In answer to the *note verbale* that the legation of the United States of America kindly addressed to the ministry of foreign affairs on the 17th of May last (No. 27), the ministry of foreign affairs has the honor to inform the United States legation that the measure concerning the Israelites going to Palestine shall not be applied, except to those who emigrate in number (*en nombre*), and that no obstacle shall be opposed to the sojourn of those who are not of this class.

Instructions of this sense have already been sent to the governor of Jerusalem.

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[Inclosure 2 in No. 129.—Translation.]

*Said Pasha to Mr. King.*

SUBLIME PORTE,
MINISTRY OF FOREIGN AFFAIRS,
*October* 21, 1888.

Mr. CHARGÉ D'AFFAIRES: In answer to the note you kindly addressed to me on the 22d of September last, No. 45, I have the honor to inform you that the Sublime Porte having lately decided that the measure concerning the Israelites going to Palestine shall not be applied but to those who emigrate in number (*en nombre*) and that no obstacle shall be opposed to the sojourn of those who are not in this class, the provisions with regard to the three Israelites, American citizens, who arrived at Jaffa on the 20th of August last, have had to be withdrawn in consequence of the instructions which have been forwarded in the foregoing sense to his excellency Raouf Pacha.

Accept, etc.,

SAID.

No. 1099.

*Mr. Bayard to Mr. Straus.*

No. 150.] DEPARTMENT OF STATE,
*Washington, October* 26, 1888.

SIR: I inclose herewith a copy of a letter of the 25th instant to Mr. Hercules A. Proios, in regard to his demand for protection by this Government as a citizen of the United States.

The circumstances of his case, as found in the records of this Department and disclosed in the letter in question, appear to leave no doubt as to the groundlessness of Mr. Proios' claim to further recognition as an American citizen. You are therefore instructed to decline further to recognize him as such.

A copy of the Department's letter to Mr. Proios has been sent to the consul-general at the Turkish capital for the files of the consulate-general.

No action beyond the withholding of such recognition and the cancellation of his passport need be taken by you.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 150.]

*Mr. Rives to Mr. Proios.*

DEPARTMENT OF STATE,
*Washington, October* 25, 1888.

SIR: I have to acknowledge the receipt of your letter of the 24th ultimo in relation to your claim of the protection and assistance of this Government as a citizen of the United States.

The facts in your case are now fully before this Department, which is thus prepared to announce to you its decision upon your claim.

It appears that in January last you were arrested by the Russian authorities at Marianople, on the sea of Azof, Russia, for extradition to Turkey, upon the request of the Turkish consul at Berdiansk, who claimed your surrender to the Ottoman Porte as a Turkish subject on a charge of embezzlement of funds and falsification of accounts while in the service of the sanitary commission at Galata, in the Ottoman dominions.

Immediately upon your arrest you appealed for intervention to stay your extradition to the legation of the United States at St. Petersburg, and to Mr. Heenan, United States consul at Odessa, both of whom interested themselves in your behalf.

On the 14th of March last you arrived at Odessa in the custody of the Russian police. On the 21st of the same month Mr. Heenan, who had previously been corresponding with various officials in regard to your case, and who had ascertained that you had an American passport, addressed a communication to the governor of south Russia reviewing the facts and asking for your discharge. The answer of the governor-general, bearing date the same day, stated that he had instructed the prefect at Odessa to investigate the matter, and that he had also immediately communicated with the Russian embassy at Constantinople for the purpose of securing further information; and later Mr. Heenan received the assurance of the governor-general that you would not be extradited until the right of Turkey to claim you was established.

On the 23d of April, Mr. Heenan, who had not ceased to exert himself in your behalf, addressed to the governor-general a demand for your release. The governor-general at once replied that he was unable to grant the demand, but that it was his opinion that you should be sent to Constantinople and that the questions raised concerning your case should there be determined.

On the following day, the 24th of April, Mr. Heenan, in an interview with the governor-general, asked that your American citizenship be conceded; that you be sent to the Russian embassy in Constantinople, as an American citizen; that the Russian ambassador be instructed to hold you as such citizen, and upon your arrival in Constantinople at once to give notice of your presence to the American minister there. This arrangement was agreed to by the governor-general, but was not carried into effect till the 14th of July, on which day you departed from Odessa for Constantinople.

On that day Mr. Heenan, writing to the Department, said: "Proios called at the consulate on his way to the steamer, and thanked me for the assistance which he had received. He denied absolutely ever having renounced his citizenship, and begged that I would so inform the Department. In appearance Proios has much improved since his arrival in Odessa, and he speaks very kindly of the prison officials and the treatment he received at their hands."

On the 16th of July you were turned over by the Russian consul-general at Constantinople to Mr. Pringle, the American consul-general at that place. On the 14th of August, the Turkish authorities having claimed the right to try you under article 4 of the treaty of 1830 between the United States and the Ottoman Porte and refused to furnish any specific and formal complaint to him, Mr. Pringle discharged you on your own recognizance. Whether there were also other reasons for the refusal of the Porte to formulate charges the Department is not prepared to say. Ulterior motives on the part of the Turkish officials in their conduct towards you are intimated in your communications to the Department. Into the consideration of this subject I do not now enter further than to observe, as a fact having relevance to present questions, that in view of your long and voluntary service in a Turkish governmental agency the Department does not seem called upon to base any action upon allegations of that character.

So far as the complaint of the Turkish Government against you is concerned, your case seems now to be ended. This supposition is confirmed by a telegraphic dispatch received at the Department from Mr. Pringle on the 16th instant, in which he states that you demand a visa, it is supposed of your passport, for the purpose of enabling you to go abroad as an American citizen. To this telegraphic request the Department has replied by telegraph that instructions in regard to your application will be sent by mail.

The facts above stated conclusively demonstrate that in your difficulty with the Turkish Government you have had the active and efficient aid of the officials of the United States in Russia and in Turkey. Their conduct in this regard has been approved by the Department, which has not been disposed to deny to you, while in difficulty, the benefit of any possible doubt in regard to your title to its aid and protection. But a conjuncture has now arrived when it becomes necessary for the Department, the facts being now for the first time fully before it, to determine the future relations of this Government to your case.

By the records of this Department it appears that you were naturalized as a citizen of the United States by the circuit court of Cook County, Illinois, on the 14th day of August, 1871. In the following month you applied to this Department, from New York City, for a passport to go abroad. Accompanying your application on that occasion is your affidavit, made before Abel C. Wilmarth, a notary public in New York City, in which you state that you were born in Greece, on or about the 23d day of November, 1844. A passport was issued to you on the 8th of September, 1871, less then a month after the date of your naturalization. In the affidavit above referred to your age is stated to be twenty-six years, which would be correct according to the date of birth therein stated. The date of your arrival in the United States and the length of your residence here before naturalization are not known, and the documents in the possession of this Department disclose statements and evidences on the subject which lead to very doubtful conclusions. In your communication to this Department of the 24th of August last, you state that you went to England at the age of eighteen, and proceeded thence to the United States, where you remained for eight years. In the same letter you state that you left the United States in 1873. These statements would make the date of your coming to this country fall in the year 1865, or, possibly, making every allowance for inaccuracy as to the duration of your stay here, 1864. But in your application to the legation of the United States in Constantinople, July 30, 1887, for new passport, you make affidavit that you came to the United States in 1859. The original of this affidavit is now in the possession of this Department. There appears to be no doubt, however, that you came to the United States after the middle of the year 1864. The exact date of your arrival here is not given in any of your communications to the Department, and Mr. Pringle writes that you tell him you are unable to give even the year. But it appears by the records of the Greek consulate in Constantinople that a passport was issued to you by that consulate to enable you to go to London, on the 6th of June, 1864.

The Department, however, although it has received one statement to the contrary, assumes that you had been in the United States five years prior to your naturalization, and that it was regular and lawful.

The date of your departure from the United States is not certainly ascertained. Your affidavit before Mr. King on the 30th of July, 1887, which has been referred to, alleges that you arrived in Constantinople in 1871. You state in your letter of the 24th of August last that you were in the Turkish service for a period of sixteen years, which would also indicate that your entrance into it took place in 1871. Whatever may be said to break the force of these statements it is indubitably shown by your obtaining

a passport from this Department on the 8th of September, 1871, that within a month from the date of your naturalization you had decided at least temporarily to leave the United States.

It is also to be observed that if the passport issued in September, 1871, was not used until 1873, it became invalid, since from 1870 until 1874 passports issued by this Department were valid only for one year, and officers of the United States were directed, and the officials of foreign Governments were requested, not to visa them after that year had elapsed. No passport was issued to you by any officer of this Government between 1871 and 1887.

In your letter of the 24th of August last you account to the Department for your departure from this country in the following manner:

"In the year 1873 I was advised by my doctor to take a trip to Europe on account of my health, and in consequence I started on a visit to my parents at Constantinople."

It is obvious that this statement wholly fails to explain the undoubted facts above disclosed.

In respect to your birth, the case appears to be that you were born in Constantinople of Greek parents; whether in 1844, as stated in your passport application in 1871, or in 1840, as stated in your application before Mr. King in 1887, is immaterial. The fact that you were born in Turkey, and not in Greece, as stated in the passport application of 1871, is supposed to be the ground on which the Ottoman Porte recently based its allegation that you were a Turkish subject. In 1869, as you are doubtless informed, the Turkish Government promulgated its law forbidding Ottoman subjects to expatriate themselves without the consent of their Government. This law was in force at the time of your naturalization in the United States, and under it Turkey has assumed to refuse to recognize the expatriation of her subjects who have sought to change their allegiance without complying with its provisions. This Government has always refused to admit, and has resisted, whenever attempted, the application of this law to naturalized citizens of the United States. The Department adverts to it now, and to the controversies that have constantly arisen out of it, merely for the purpose of disclosing all the circumstances of the case now under consideration. The Department is also far from intending to intimate an opinion favorable to the soundness of the Porte's claim in respect to your citizenship, supposing you had never been naturalized in the United States. Under those circumstances the question would be between Greece and Turkey.

However that may be, and whatever may be the exact date of your departure from the United States, it nevertheless appears that soon after your naturalization here you returned to the place of your origin, and there continuously remained until 1887, for a period of from fourteen to sixteen years, when you left and settled yourself as a ship-chandler in southern Russia. You state that you left Turkey voluntarily. But this is not material to our present inquiry. While in Turkey, after your return thereto, you were employed in an institution under the jurisdiction of the Government. You were not a member of any American community in that country, nor connected with any American interests there or elsewhere. In all this time you manifested no intention to return to the United States and incur the burdens of citizenship here, and when you left Turkey it was to proceed to Russia, where you engaged in business of a permanent character, to which you have expressed an intention to return. Mr. Pringle reports that you have also distinctly told him that you do not intend ever to return to the United States.

In view of all these facts, there does not appear to be room to doubt that you have long since abandoned your American citizenship. The assumption that a person once a citizen of the United States is ever afterwards entitled to the protection of this Government, unless he by an express and formal declaration renounce it, is entirely unfounded and opposed to the settled doctrines of this Government. In the administration of President Washington the rule was formulated by Mr. Jefferson, his Secretary of State, that "our citizens are certainly free to divest themselves of that character by emigration, and other acts manifesting their intention, and may then become the subjects of another power and free to do whatever the subjects of that power may do."

By another eminent Secretary of State the opinion was expressed that "it can admit of no doubt that the naturalization laws of the United States contemplate the residence in the country of naturalized citizens unless they shall go abroad in the public service or for temporary purposes." This opinion was subsequently adopted by Mr. Fish, Secretary of State, who declared that a residence for a long series of years in a foreign land, coupled with a non-payment of taxes to the sovereign of birth or naturalization, whichever the case may be, may, without formal change of allegiance, forfeit a claim to protection from such sovereign. It would be useless to cite at length the many and various instances in which this rule has been laid down and applied by this Department. It will suffice to quote from a recent decision of the Department the following passage:

"Citizenship of the United States, it is my duty to say, is a high privilege, and,

when granted to an alien, confers great prerogatives, whose maintenance, when they are honestly procured and faithfully exercised, the United States will exert its fullest powers to vindicate. * * * But the enjoyment of the prerogatives is conditioned on the performance of the correlative duties of loyal service, of love to the country of adoption, of support of the country when she needs support, and the payment of the just taxes that country imposes on all its citizens. When the performance of that duty ceases then cease the prerogatives of the citizenship on which they are conditioned."

This principle has found expression in many of our treaties of naturalization, in which it has been provided that the return of a naturalized citizen to the country of his origin, without an intention to return to the country of adoption, shall operate and be treated as a renunciation of adoptive allegiance, and a two years' residence after return to the country of origin is generally adopted in such treaties as *prima facie* evidence of such renunciation.

The Department does not lose sight of the fact that exceptional and peculiar doctrines prevail as to the continuous preservation by foreigners of their nationality in Turkey. But such doctrines have no application to persons resident in Russia, where you seem to have gone in order to enter upon a permanent occupation involving a domicile in that country; nor is it to be implied that the other circumstances of the present case bring it, so far as this Government is concerned, within the purview of those doctrines. The simple question now before the Department is whether it should permit the protection of this Government to be further used for your convenience when it is made to appear that you are living permanently in foreign lands, that you never intend to return to the United States, and that you have no American connections and contribute to no American interests or institutions. On this subject there is no room for doubt or hesitation. This Department, as a constituted organ of the American people, is not permitted to involve and jeopard their interests by supporting such a pretension.

The legation and consulate-general of the United States at Constantinople will therefore be instructed to decline to visa your passport or to further recognize your claim to American citizenship.

I am, sir, etc.,

G. L. RIVES,
*Assistant Secretary.*

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## No. 1100.

### *Mr. King to Mr. Bayard.*

No. 133.] LEGATION OF THE UNITED STATES,
*Constantinople, November* 3, 1888. (Received November 19.)

SIR: Referring to your instructions, No. 105, of June 1 last, and No. 112, of June 19 last, I have to say that certain concessions beyond the terms of the law on archæological explorations have been obtained from the Sublime Porte, namely, the offer to present to the explorers certain articles not needed by the imperial museum (from those found), and the right of exporting the same.

We (the friends of the expedition) feel that there is ground to hope that the nature of the concession will prove satisfactory, and, taking all the circumstances into consideration, we are pleased to have obtained such terms, although not as liberal as were expected by Dr. Pepper and others.

As the concession goes beyond the printed law, an iradeh from His Majesty the Sultan becomes necessary; it was expected this week, and will doubtless be issued in a few days. One circumstance particularly favored the application, namely, that the Turkish Government itself is not at present making any excavations in that part of the Empire; and one was very unfavorable—that if liberal terms were granted to Americans the same would at once be demanded by the representatives of various countries in Europe.

I have, etc.,

PENDLETON KING,
*Chargé d'Affaires ad interim.*

No. 1101.

*Mr. Adee to Mr. Straus.*

No. 156.] DEPARTMENT OF STATE,
*Washington, November* 6, 1888.

SIR: Mr. King's dispatch, No. 129, of the 22d ultimo, inclosing two notes from the Sublime Porte concerning recent interference with Israelites going to Jerusalem, has been received. In the first of these notes, dated October 4, 1888, the minister of foreign affairs states that the measure concerning the Israelites going to Palestine shall not be applied except to those who emigrate in mass, and that no obstacle shall be opposed to the sojourn of those who are not in this class; and in the second it is stated that the measures with regard to the three Israelites, American citizens, who arrived at Jaffa on the 22d of August were necessarily withdrawn in consequence of instructions which have been forwarded in the foregoing sense.

The corresponding announcement was received at the Department a few days ago from Mavroyeni Bey, the Turkish minister at this capital, and was sent to you on the 3d instant without comment.

It is now observed that the diplomatic body in Constantinople intends to consider the matter, and while the Department does not attempt to conjecture the course of such joint discussion, it does not suppose you will have taken any very decided ground as to the right of their colonization or pilgrimage in mass, but it is presumed your discretion will have led you to reserve full liberty to consider the case of any individual American citizen who may be denied impartial treaty rights because of imputed or admitted Hebraism.

I am, etc.,

ALVEY A. ADEE,
*Acting Secretary.*

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No. 1102.

*Mr. Straus to Mr. Bayard.*

No. 139.] LEGATION OF THE UNITED STATES,
*Constantinople, November* 14, 1888. (Received December 3.)

SIR: The inclosed letter from Rev. Dr. Isaac G. Bliss, superintendent of the Levant agency of the American Bible Society, asking me to endeavor to get authority from the Sublime Porte to publish and circulate a new edition of the Bible translated into Turkish, explains itself. After several discussions upon the subject with the minister of foreign affairs, I formulated the grounds of our rights and privileges in a note to the Sublime Porte under date of June 16, 1888, a copy of which is inclosed.

Finally, on August 2 last, such permission was duly granted for the publication and circulation of this particular edition.

The decision, however, upon the general principles as to the effect and binding force of Aali Pasha's note referred to in my note to the Porte, was reserved for future consideration by the minister of public instruction.

After consultation with Dr. Bliss it was deemed best not to delay the publication of the edition above referred to until the entire question was

disposed of. That question will again come up for discussion at some future time, when I hope the principle will be once and for all settled.

I have, etc.,

O. S. STRAUS.

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[Inclosure 1 in No. 139.]

*Rev. Dr. Bliss to Mr. Straus.*

AMERICAN BIBLE SOCIETY, LEVANT AGENCY, BIBLE HOUSE,
*Constantinople, May* 1, 1888.

DEAR MR. STRAUS: Allow me to call your attention to the following facts in regard to the publication of the Turkish Bible:

The permit to publish the Bible in Osmanli Turkish, was given on the 21st of February, 1295 (1880), old style. After a few years the edition of these Scriptures published under the authorization was exhausted and application was made by the authorities for a permit to print a revised edition of the Bible. The permit to publish this edition was given the 28th June, 1302 (1886), old style.

Not long after we sought and obtained permission to publish from this revised edition of the Bible the New Testament in small size. The date of the permission to publish this New Testament was the 28th July, 1302 (1886), old style.

This edition being exhausted permission for printing the New Testament in large type was asked. At this point a difficulty arose. The Mooarif consented to give this permission only upon the condition that we place upon the title page the words "For Christians only." With this condition we could not comply. It was not only new but entirely contrary to the understanding arrived at with the Mooarif on a previous occasion, viz, that it should be regarded sufficient if upon the title page of the book were printed the statement that the book is published at the expense of the Bible Society. This arrangement was accepted by all parties, and for a term of years, up to this present time, our books have been published under this arrangement.

These facts were brought before the Medjlis by Mr. Gargiulo, with the result that they did not insist that the condition should be complied with that we place upon the title page "For Christians only." About this time the new law of the press was issued, according to which any book which has been once published with the permission of the Mooarif may be reprinted without a new permit, upon the condition that two copies of this new edition be deposited with the Mooraif before the book is offered for sale.

In view of the new law of the press, Mr. Gargiulo was informed by the Mooarif that the printing of the New Testament in question could be proceeded with, and we were pledged to deposit the two copies of this new edition as soon as we had them in hand from the printer.

Accordingly the printing was pressed and in due time finished. As soon as completed two copies of the book were sent up to the Mooarif with the expectation that in accordance with the terms of the new press law the permit to put the book on the market for sale would be at once given. This authorization the Mooarif, after keeping us going and coming for a long time, and leading us to expect that it would be soon granted, have finally declined to give.

Your excellency will note that the permit to publish the Osmanli Turkish Bible and New Testament was, after prolonged negotiations with the Sublime Porte and the Mooarif, fully allowed.

Furthermore, since that time, several editions of these books have been published with the full knowledge and approval of the Mooarif, and in entire conformity to all the conditions laid down by them in respect to the publication of books. In view of the fact that there is no law of the Empire adverse to the publication of these books, and also that we have in every instance conformed to the requirements of the laws of book publication, it is evident that to deny us the advantages of the law of the press in the present case, not only causes us large commercial loss, but it is gross injustice to the societies which have in all their operations been perfectly loyal to the Mooarif.

This, in brief, is, if I mistake not, the correct history of the negotiations and difficulties connected with the printing of the Turkish Bible.

It is our earnest hope, my dear Mr. Straus, that you will be able to deliver us out of the difficulties that now surround us in this work.

Yours, truly,

ISAAC G. BLISS.

[Inclosure 2 in No. 139.]

*Mr. Straus to Said Pasha.*

LEGATION OF THE UNITED STATES,
*Constantinople, June* 16, 1888.

EXCELLENCY: The right to publish the Bible in Turkish and to circulate it has been exercised by Christian societies in this Empire for many years. Why this right should at this time be denied by his excellency the minister of public instruction is a matter I can not understand, nor can I believe that he is acting within the scope of his authority in taking such a course, which is not only contrary to the guaranties of religious liberty, but also in conflict with treaty rights relating to trade and commerce.

The permit to print and circulate the Bible in Turkish was given to the American Bible Society on February 21, 1880 (1295 old style), also on June 28, 1886 (1302 old style), and again as hereinafter stated on the 28th July, 1886 (1302 old style).

For some time past the ministry of public instruction has placed various obstacles in the way of the American Bible Society in the prosecution of its legitimate work. The society not wishing to trouble the legation, has submitted to the many little difficulties that have thus interposed. Matters have now come to such a pass that official action has to be taken.

A few weeks since the Bible Society printed in accordance with the terms of the law a second edition of the New Testament in Turkish, for which it had obtained official authorization on the 28th July, 1886 (1302 old style), but it appears that the Enjuman council of public instruction has recently refused to allow the publication of the same.

The ground upon which such refusal was based is that the Bible is obnoxious. I doubt if such refusal or objection will be sustained for one moment by the Sublime Porte.

It is only necessary to refer in this connection to a note written by his excellency the late Mehemet Emin Aali Pasha, then imperial minister of foreign affairs, to Sir Henry Bulwer, Her Britannic Majesty's ambassador, bearing date 10th Cheval, 1277 (April 2, 1861), wherein he states (translation): "No impediment has hitherto been offered to the sale of Holy Testaments printed in various tongues, and thus, in accordance with your excellency's desire, no impediment will now be placed."

Without going into an argument on this subject, it is hoped that sufficient has been presented to induce your excellency to have proper instructions given so that the right to print, translate, and circulate the Bible be no longer withheld.

Accept, excellency, etc.,

O. S. STRAUS.

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## No. 1103.

*Mr. Bayard to Mr. Straus.*

No. 159.] DEPARTMENT OF STATE,
*Washington, November* 21, 1888.

SIR: I have much satisfaction in acknowledging Mr. King's dispatch, No. 133, of the 3d instant, reporting that His Imperial Majesty the Sultan had decided to grant an iradeh to the representatives of the University of Pennsylvania permitting archæological explorations in Assyria and Babylonia.

I am, etc.,

T. F. BAYARD.

## CORRESPONDENCE WITH THE LEGATION OF TURKEY AT WASHINGTON.

### No. 1104.

*Mavroyeni Bey to Mr. Bayard.*

[Translation.]

IMPERIAL LEGATION OF TURKEY,
*Washington, March* 2, 1888. (Received March 2.)

Mr. SECRETARY OF STATE: The Sublime Porte has recently charged me to bring to your excellency's knowledge the following facts:

In view of the inconveniences growing out of the congregation in Palestine of Israelites who resort thither from every quarter to take up their residence there, the Imperial Government interdicted their immigration into that part of the Empire. Nevertheless, certain among them succeeded in establishing themselves there. In order to put an end to this state of things, the Sublime Porte has decided only to authorize free access into Palestine to Israelites coming from foreign countries under the following conditions: Their passports should expressly state that they are going to Jerusalem in the performance of a pilgrimage, and not for the purpose of engaging in commerce or taking up their residence there. As regards their sojourn in Palestine, instead of one month, it can not, in any case, exceed the space of three months. They must have their passports so drawn up (*libellés*) visaed by the Ottoman consul, and on their arrival they will be bound to supply themselves with a "*permis de séjour*," issued by the Imperial authorities and couched in the same terms.

I avail, etc., A. MAVROYENI.

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### No. 1105.

*Mr. Bayard to Mavroyeni Bey.*

DEPARTMENT OF STATE,
*Washington, March* 5, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, in which you inform me that, in view of the alleged inconvenience of the resort of numerous alien Israelites to Palestine for purposes of business and residence, the Sublime Porte has decided only to authorize the entrance of such Israelites on the condition that they bear passports which shall "expressly state that they are going to Jerusalem in the performance of a pilgrimage and not for the purpose of engaging in commerce or taking up their residence there;" that the passports so drawn up shall be visaed by the Ottoman consuls, and that, on arrival, the holders shall be bound to supply themselves with "permits of sojourn" issued by the Imperial authorities and couched in the same terms as the passports.

As the matter to which your note relates is pending at Constantinople, and representations in respect thereof have been made to the Sublime Porte by the envoy of the United States, I have transmitted a copy of your communication to Mr. Straus with suitable instructions.

I may, however, remark for your information, apart from other and weighty considerations, touching which Mr. Straus is fully advised, that by the settled practice, and by the laws governing the Department of State, it is precluded from giving to citizens of the United States preparing to go abroad any certificate as to their purpose in so going.

Accept, etc.,

T. F. BAYARD.

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No. 1106.

*Mavroyeni Bey to Mr. Bayard.*

[Translation.]

IMPERIAL LEGATION OF TURKEY,
*Washington, October* 30, 1888.

Mr. SECRETARY: By my note dated the 2d of March last, I had the honor to bring to the knowledge of your excellency certain regulations which the Sublime Porte had deemed incumbent to adopt in regard to the sojourn of Israelites in Palestine.

In present conformity with new instructions from my Government I have the pleasure to inform your excellency that the measures recited in my aforesaid note are only applicable to Israelites emigrating in a body (*en nombre*), and that no obstacle will be raised against the sojourn of those who do not come within this case.

Accept, etc.,

A. MAVROYENI.

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No. 1107.

*Mr. Rives to Mavroyeni Bey.*

DEPARTMENT OF STATE,
*Washington, November* 3, 1888.

SIR: I have the honor to acknowledge receipt of your note of the 30th ultimo, explaining that the recent regulations of the Sublime Porte relative to the sojourn of Jews in Palestine are only applicable to Israel ites emigrating in a body, and saying that no obstacle will be raised against those who do not fall within this class.

Accept, etc.,

G. L. RIVES,
*Acting Secretary.*

# EGYPT.

## No. 1108.

### *Mr. Cardwell to Mr. Rives.*

[Extract.]

No. 201.] AGENCY AND CONSULATE-GENERAL
OF THE UNITED STATES OF AMERICA,
*Cairo, Egypt, January* 4, 1888. (Received February 1.)

SIR: I am in receipt of a note from the minister of foreign affairs for the Egyptian government, asking the adhesion of the Government of the United States to a proposed khedivial decree having for its object partial suppression of the corvée.

The corvée, as you know, in Egypt applies to labor on river embankments, canal excavations, and dikes, ditches, etc., as well as to work on public roads. It is a public measure similar to what is in force in almost every State of the Union. Enforced labor is imposed in the United States for usually not exceeding ten days of every year, while the Egyptian law, except in cases of dangerous emergency, requires service for not exceeding thirty days. In a country without rain, where its agriculturists may work in their fields for three hundred and sixty-five days in the year, and where agriculture could return nothing without public irrigation, as well as public protection against the inroads of floods, this service is, in my opinion, exceedingly proper. For the Government of Egypt to propose to abolish the corvée would entail upon it an expense which would wreck almost any nation. The question has been presented to the world as one in which civilization is involved.

The European powers, signing at London, contemplated indefinite abolition of the corvée, probably under pressure of this idea, but some of them have held out against its proposed definite enforcement. France positively refused for a time to sanction the submittal of a decree and Russia showed obstinacy, but the powers are now asked to assent to the proposition to partially suspend the corvée. It contemplates contracts in partial substitution of the corvée, and to make contracts money must be used out of the Egyptian treasury. The proposition is to expend annually 250,000 Egyptian pounds, the equivalent of $1,250,000, in employing voluntary labor by means of contracts in place of enforced labor for the government. Where it is necessary the thirty days' limit will remain in full force and be even exceeded.

I am, etc.,

JOHN CARDWELL.

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[Inclosure in No. 201.—Translation.]

*Draught of decree.*

Whereas it is desirable for the agricultural prosperity of Egypt that the imposition of the corvée tax should be reduced to the lowest possible limits, and that at the same time this should be effected without having any receipts or expenditures which are not shown in the budget;

Whereas our government should, from the year 1887, include in the budgetary returns all sums accruing from the purchase of exemptions from the corvée; also all other receipts, whatever they may be, which may be obtained in the future, and that the employment thereof shall be shown in the expenditure account: We, Khedive of Egypt, with the advice of our ministers and the approval of the powers, have decreed and do now decree:

ARTICLE 1. From the year 1887 the sum of 5,237,000 Egyptian pounds, the amount fixed for the annual administrative expenses of the government, shall, in accordance with article 18 of our decree of July 27, 1885, be increased in accordance with the conditions which follow:

(1) From the sums accruing from the purchase of exemptions from the corvée during the preceding years, conformable to our decree of the 25th of January, 1881.

(2) From a sum of 250,000 Egyptian pounds.

These credits will be exclusively applied to works actually executed by means of the corvée. Future budgets will be increased by a sum equal to that which has been placed at the disposal of the ministry of public works by the budget of 1887.

ART. 2. The *Caisse de la Dette* shall have power to control all such credits opened at the ministry of public works, so as to insure that such have been properly applied.

In regard to the credits of the ordinary budget of the public works, credits which are estimated at 464,623 Egyptian pounds, the *Caisse de la Dette* shall require as proof of these credits having been properly employed the production of a list, drawn up by chapters and subchapters by the finance ministry, showing that these credits have been entirely expended in payment for public works. For the credits over and above the sum of 5,237,000 Egyptian pounds, that is to say, for the credit of 250,000 Egyptian pounds and for that which will be included in the returns from the purchase of exemptions from corvée, the proper application or employment of the same shall be proved by producing at the *Caisse de la Dette* all the accounts justifying the expenditures made.

ART. 3. If the credits of the ordinary budget for public works shall be less than the sum of 464,623 Egyptian pounds, or if this sum has not been entirely expended, the increase of the administrative expenditure authorized by the present decree shall be reduced by a sum equal to the diminution of the credits, or to the amount of the unexpended credits.

ART. 4. The manner in which the above-named sum of 250,000 Egyptian pounds is to be employed and distributed among the different Moordiriehs shall be determined each year by decree. A fair and equitable distribution of this sum is to be made among the various provinces after the *Caisse de la Dette* has been consulted. If, in the course of the year it shall be found necessary to execute works to meet special and unforeseen circumstances, a new division or distribution of the sum shall be made by the minister of public works, who shall give notice thereof to the *Caisse de la Dette*. Our minister of public works shall forward us, at the end of each year, a report, which shall be published in the Journal Officiel, setting forth the exact number of corvée days which would have been required of the population and the profit in the reduction of the same as calculated on the average of the last four years, according to the lists published by the Journal Officiel of June 30, 1886.

ART. 5. The administrative expenses, authorized by the decree of July 27, 1885, can be increased by drawing on the sums necessary for the working of the petroleum mines, such increase not to exceed the sum of 40,000 Egyptian pounds in 1887, and for succeeding years the amount yielded by the mines.

ART. 6. Our ministers of finance and public works are intrusted, in so far as it concerns them, with the execution of the present decree.

Done at the palace ——— the —— of ———, 188—.

By the Khedive:

———, ———,
*The President of the Council of Ministers.*

———, ———,
*Minister of Finance.*

———, ———,
*Minister of Public Works.*

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## No. 1109.

### *Mr. Bayard to Mr. Cardwell.*

No. 127.] DEPARTMENT OF STATE,
*Washington, February* 4, 1888.

SIR: Your dispatch No. 201 of the 4th ultimo reports that you are "in receipt of a note from the minister of foreign affairs of the Egyptian

government, asking the adhesion of the United States to a proposed Khedival decree having for its object partial suppression of the Corvée."

Your explanation of the nature of compulsory service for public works, known in Egypt as the "corvée," and of the intent, scope, and effects of the projected legislation for its partial suppression, suggests that, like other Egyptian municipal measures to which the Khedival government has heretofore invited the adhesion of the United States, it does not directly concern this Government or its citizens, nor does it seem to call for any expression of approval or disapproval on our part.

I may, therefore, repeat, in this instance, the substance of the instruction sent to you on March 31, 1886 (No. 28), when our "adhesion" was asked to a Khedival decree permitting the temporary investment of certain trust funds at interest for the benefit of the Egyptian treasury, that while the Government of the United States has no practical concern in the subject-matter of such decrees, except to see that no discrimination against American citizens is proposed, and is not prepared to advocate the measures, and could not join in their enactment, yet as the withholding of adhesion on our part might embarrass the Khedive's government and prevent its carrying out a domestic reform in its own interest, the Government of the United States, at the solicitation of that of the Khedive, gives this qualified assent, which you will properly make known to the minister for foreign affairs.

In this relation you may also consult the Department's instruction No. 13, of January 7, 1886, concerning a decree for the levy of a house tax.

If anything in the foreign minister's note to you or in the terms of the decree relative to the corvée should appear in your good judgment to conflict with the execution of this instruction, you will advise the Department accordingly and await further instructions.

I am, sir, etc.,

T. F. BAYARD.

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No. 1110.

*Mr. Cardwell to Mr. Rives.*

[Extract.]

No. 209.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Cairo, Egypt, February* 12, 1888. (Received March 5.)

SIR: In my No. 207 incidental reference was made to the presence of a large number of American voyageurs in Egypt this winter. The great increase in their numbers over previous years deserves special notice.

During the winter of 1884–'85 there were not exceeding a dozen Americans visiting Egypt. In the winter of 1885–'86 there were not exceeding one hundred and twenty-five. That of 1886–'87 saw the number increase to not exceeding seven hundred, while the present winter brings very nearly thrice the last-named number. Up to this date there have been over seventeen hundred of our people who have put in their presence at Cairo since the beginning of the present winter, and there will be three hundred more before the tourist season closes. It is estimated that the Americans are this season spending $1,500,000 in Egypt. In return they are reaping the richest rewards in viewing a

land of strange customs and antique wonders, while they enjoy a winter climate of unsurpassed loveliness as well as purity.

There being no large American colony in Cairo, as at most of the European capitals, amid which information desired by strangers may be obtained, they naturally and even necessarily turn to the representative of their Government for many things which his position suggests to them he understands, and for friendly offices, which in this country he should, as I think, readily accord. I make it a rule that, whenever properly approached, even the unofficial wishes and pleasures of my countrymen shall have consideration.

There is a very strong disposition evinced in certain native circles to gratify these strangers. In this connection I may be permitted to refer to higher Egyptian officials, and notably to His Highness the Khedive, who always expresses the warmest friendship for them, and who evinces a readiness to comply in most pleasing style to my requests.

The season here is so pleasing to Americans that I look to great augmentation of numbers in the future. Very many of them make the Nile voyage, spending weeks, often months, in Upper Egypt and Nubia.

I am, etc.,

JOHN CARDWELL.

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No. 1111.

*Mr. Rives to Mr. Cardwell.*

No. 133.] DEPARTMENT OF STATE,
*Washington, March* 7, 1888.

SIR: Your dispatches numbered 202 to 209 are received. Referring to the last, dated February 12, I have to remark that the Department observes with much satisfaction your intelligent efforts to promote the interests of your fellow-countrymen in Egypt.

I am, sir, etc.,

G. L. RIVES,
*Assistant Secretary.*

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No. 1112.

*Mr. Cardwell to Mr. Rives.*

No. 212.] AGENCY AND CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
*Cairo, Egypt, March* 10, 1888. (Received April 2.)

SIR: Having made reference more than once to the importance of the American missions in Egypt as an educating agency, and to the propriety of extending this interest the most perfect protection, I beg to call your attention to a publication, herewith inclosed, which demonstrates its importance and magnitude,

I am, etc.,

JOHN CARDWELL,

[Inclosure in No. 212.]

*American Mission, Egypt, 1887.*

This mission was begun in November, 1854, by the Rev. T. McCague.

Its present staff of foreign missionaries consists of 11 ordained missionaries, 1 physician, 10 unmarried female missionaries, 10 married ladies; total, 32.

The mission carries on its work in three departments, which may be called the evangelistic, the educational, and the book distribution.

*The evangelistic department.*

| | | | |
|---|---|---|---|
| Ordained pastors | 10 | Places in which nightly meetings are held | 66 |
| Licensed preachers | 7 | Church members, December 31, 1887 | 2,307 |
| Bible readers and exhorters | 18 | Increase of members by profession | 334 |
| Theological students | 5 | Women taking lessons | 455 |
| Elders | 41 | Scholars in Sabbath-school | 4,338 |
| Deacons | 38 | Lesson papers distributed | 120,000 |
| Zenana workers | 20 | Amount Sabbath-school collections | £48 |
| Sabbath-school teachers | 240 | Amount contributed by natives for religious purposes in 1887 | £1,189 |
| Organized congregations | 25 | | |
| Congregations with pastors | 13 | | |
| Other preaching stations | 63 | | |

*Book department.*

| Depots and employés. | No. | Character of books distributed. | Volumes. | Proceeds. |
|---|---|---|---|---|
| Book depots | 8 | Scriptures | 10,289 | £515 |
| Salesmen in same | 8 | Religious | 6,929 | 197 |
| Colporteurs | 15 | Educational | 16,411 | 821 |
| Total | | | 33,609 | 1,533 |
| Stationery | | | | 79 |
| Total | | | | 1,612 |

This mission only keeps in its depots books for its own needs and does not do a general book business. The cost of the department is much more than the proceeds of sales.

*Educational department.*

| | Pupils. |
|---|---|
| One college at Assiout | 311 |
| One school for boys at— | |
| Cairo | 450 |
| Mansura | 111 |
| Alexandria | 134 |
| Total | 1,006 |
| One boarding and day school for girls at Assiout | 69 |
| One boarding and day school for girls in Cairo | 253 |
| Two day schools for girls in Cairo | 537 |
| One day school for girls in Mansura | 101 |
| One day school for girls in Alexandria | 160 |
| Total | 1,120 |
| Total boys and girls enrolled in mission schools | 2,126 |
| Pupils in 71 native schools taught by teachers trained in American mission schools and under Protestant influence, all of which are self-supporting— | |
| Boys | 2,823 |
| Girls | 639 |
| | 3,462 |
| Total number of pupils | 5,588 |

Of this number 1,759 are girls and 3,829 are boys. The religions of these pupils are as follows: 966 Protestants, 3,443 Copts, 717 Moslems, 45 Roman Catholics, 116 Greeks, 144 Jews, 157 of various other sects. As to nationality, 5,308 are Egyptians and 280 of other nations. The pupils paid for boarding about £510 and for instruction £2,130.

The number of pupils who paid something was 3,882; free, 1,806.

The work of the mission extends from Alexandria to Assouan, and entails a large expenditure. After deducting all receipts from the natives for congregational and school purposes the expense in 1887 was £7,600. New places are calling, some for schools, others for preachers. The mission would gladly respond did its financial condition permit. If any one has a desire to aid us in any department of the work we would thankfully accept a helping hand. Contributions or donations may be given to any one of the missionaries and will be acknowledged in the annual report.

The mission gratefully acknowledges the generous aid of the American Bible Society and the British and Foreign Bible Society in Bible distribution, and also various donations from friends and travelers, all of which will appear in detail in our annual report.

By order of the Missionary Association.

ANDREW WATSON.

CAIRO, *February* 18, 1888.

# URUGUAY.

## No. 1113.

### *Mr. Bacon to Mr. Bayard.*

No. 242.] LEGATION OF THE UNITED STATES,
*Montevideo, August* 26, 1888. (Received October 8.)

SIR: Some months ago an invitation was extended by the Argentine and Uruguayan Republics to the South American States, including Brazil, to attend a congress to be held at Montevideo on the 25th of August, instant (being the "natural independence day" of Uruguay), for the purpose of discussing the subject of private international law.

Judging from the comments of the press, it is intended to effect a more general and common international law or regulation as to the rights of "succession," wills, inheritance, citizenship, marriages, divorce, domicile, etc.

The South American States, with the exception of Venezuela and Colombia, have sent delegates to the congress, and it was opened on the 25th, yesterday (the ministers for foreign affairs of Argentine and Uruguay presiding), in the presence of the President and cabinet of this Republic, the diplomatic corps, and other officials.

The aforesaid ministers for foreign affairs delivered set speeches in the names of their respective Governments welcoming the deputies and inaugurating the congress. These speeches were very general, and did not foreshadow even what would be submitted to the congress.

Since the inauguration the congress has held its sessions with closed doors, and nothing is imparted as to its proceedings even to the newspaper reporter.

I am advised, however, that the efforts of the congress will be to agree upon some "general international code of private rights," which, owing to the advanced state of the Argentine and Uruguayan Governments in certain regards, is greatly desired by them, especially so far as marriages are concerned.

The congress, it is supposed, will continue its sessions for two or three months.

I am, etc.

JOHN E. BACON.

# VENEZUELA.

## No. 1114.

### *Mr. Scott to Mr. Bayard.*

No. 187.] LEGATION OF THE UNITED STATES,
*Carácas, September* 3, 1887. (Received September 21.)

SIR: I have received information from a reliable source that Venezuela contemplated closing her ports against Curaçao for a supposed grievance sustained in the latter harboring Venezuelan refugees, and permitting them to issue publications assailing the character of General Guzman Blanco, President of Venezuela.

It seems that about the first of August last the Venezuelan Government asked the Curaçao Government that the three Venezuelan refugees, Silva, Goda, and Diaz, now residing in Curaçao, should be expelled from the island, and this demand was accompanied by the declaration "that should no attention be paid to it the Government of Venezuela would be obliged to suspend all sort of commercial relations between its territory and that of the neighboring Dutch colonies."

Governor Van der Prandhoff, of Curaçao, replied to this demand of Venezuela in a courteous and moderate manner; stating "that Curaçao had never been wanting in its international relations with the Republic of Venezuela, and that in regard to the publications of Silva and Diaz, although insulting towards the President of the Republic of Venezuela they could not be considered as calculated to create a revolution in Venezuela, nor as likely, in any respect, to disturb the peace of the country; that, in accordance with the penal code of the colony of Curaçao, the President could bring a suit against them for these publications, but they in no wise made them liable to expulsion. That in regard to the arguments on the obligations imposed by international laws, the governor says that the colony of Curaçao has in no wise been wanting in its international obligations, and considers and treats Venezuela as a neighboring friend, with whom it desires to live in perfect harmony, and to whom it will always extend the most cordial treatment. That, acting on this principle, measures had already been taken to put an end to the lampoons of Silva, Diaz, and others, which he, the governor, entirely disapproved; but that, on the other hand, he thought he had a right to expect the reciprocal courtesy due by one state to another, and more especially that the Government of Venezuela should neither put forward nor insist upon demands which were perfectly untenable before modern international law, and which the government of the colony can not comply with;" but, that while he is obliged to refuse compliance with the demand of Venezuela as regards Silva and Diaz, the governor acknowledges that Goda, whose case had been carefully examined, is by his own declaration before the attorney-general of the colony differently situated, and had been accordingly ordered to leave the island before the 1st of September next, and would have been so ordered previous to the demand of Venezuela for his expulsion.

The governor of Curaçao concludes his note to the Venezuelan Government by firmly but respectfully declining to accede to the request of Venezuela to expel Silva and Diaz from the island of Curaçao.

Thus briefly I have given you a synopsis of the condition at present of the pending difficulty between Venezuela and Curaçao; and the reason why I have invited your consideration to this particular matter is, that if Venezuela carries out her threat and closes her ports against all traffic between them and Curaçao it will seriously affect and damage American commerce, as the "Red D Line," an American enterprise, does nine-tenths of the carrying trade between this country and the United States. This line is composed of three fine steamers, the *Philadelphia*, *Carácas*, and *Valencia*, which make monthly trips each from New York to Laguayra, stopping at Curaçao both coming and going. The departures and arrivals of these United States steamers at the island of Curaçao are tri-monthly, and there they connect with the "Red D Line" steamer *Maracaibo*, which takes its cargo from either one of these steamers on its arrival at Curaçao and transports it to the port of Maracaibo.

This line of steamers is owned by Messrs. Boulton, Bliss & Dallett, No. 71 Wall street, New York, and the house of H. L. Boulton & Co., Carácas, and since this line of United States steamers was started the trade between the United States and Venezuela has been doubled, for statistics show that the trade between the two countries in 1879 was $1,793,000, but after the establishment of the "Red D Line" it increased in 1884 to $2,953,000, in 1885 to $3,043,339, and must be now, in 1887, over $4,000,000, and this increase has been produced by this line of steamers, which entitles them to consideration and protection.

Besides, it is reported that Holland will not submit to the imposition on one of her colonies and may retaliate by blockading the ports of Venezuela, and that England, irritated and provoked at the suspension of diplomatic relations on the part of Venezuela, may aid Holland in the movement. I give you these reports and rumors for what they are worth, but there may be complications and difficulties in the coming future arising from the arbitrary acts of General Guzman Blanco, that will call for the serious attention and consideration of your Department. I am well aware of the policy of non-intervention in foreign affairs adopted by our Government, but the national interest of American citizens may be involved in this action of the Venezuelan Government in closing its ports to all trade between this country and Curaçao, and whatever course you may conclude to pursue, after investigating this subject, will be strictly adhered to by this legation on receiving instructions in the premises.

I have, etc.,

CHARLES L. SCOTT.

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## No. 1115.

### *Mr. Bayard to Mr. Scott.*

No. 126.] DEPARTMENT OF STATE,
*Washington, September* 22, 1887.

SIR: Your dispatch No. 187, of the 3d instant, in which you inform the Department that Venezuela threatens to close her ports against the island of Curaçao and that you believe that American commerce will

be seriously affected in the event the threat is carried out, and submit the matter to this Department, has been received.

This Government would view with great concern such a measure as that indicated in your dispatch, whereby the ports of Venezuela might be closed to the products and merchandise of the United States destined for Venezuela and transshipped *en route* in the port of Curaçao from one American vessel to another. A similar question occurred in 1882–'83 touching the decree of the Venezuelan Government imposing 30 per cent. additional discriminating duty on goods imported from foreign countries but transshipped *en route* in a foreign colony (see volumes of Foreign Relations 1882, 1883). This Government instantly and earnestly remonstrated against that measure, which struck a blow at a large and legitimate traffic carried on between the United States and Venezuela under the flag of the United States, and the justice of our representations was admitted, as will be seen by reference to the amendatory decree of 26th of January, 1883, by which it was declared:

ART. 1. The fruits, merchandise, and effects which may come from the United States of North America, or from Europe, dispatched for Venezuela, with all the documents required by the law for the regimen of the custom-houses, may be transshipped in foreign colonies from vessel to vessel in order to proceed to their destination, and will be considered as of direct *procedencia* from the ports of origin.

Article 2 of that decree furthermore provides that goods for transshipment as aforesaid may, in the absence of the transshipping vessel at the time, be landed and re-shipped when transportation offers, under certain formalities to establish that the continuity of the direct importation from the country of origin to Venezuela is not broken.

This decree takes no notice of the nationality of the flag under which this direct continuous importation may be effected, and indeed no discrimination could well be set up against the carrying flag when the measure obviously concerned only the direct importation of merchandise from the port of original shipment.

As the bulk of the commerce between the United States and Venezuela is now conducted there could be no room for any flag discrimination, even if such were contemplated. The goods are carried continuously under the flag of the United States. The steamers of the "Red D Line" (Philadelphia, Carácas, Valencia, and Maracaibo) are all American vessels, registered according to our laws, and the transferrence of merchandise, by the way, from one to the other of these ships does not break but on the contrary make manifest and complete the continuity of the voyage.

Proper regulations for documenting the merchandise so carried and transshipped to establish the fact that the importation is direct are easy to frame, and if limited to accomplishing their express purpose could not well be the occasion of objection.

But the proposal of Venezuela to "suspend all sort of commercial relations between its territory and that of the neighboring Dutch colonies" would be a subject of deep and legitimate concern if its effect were to suspend commercial intercourse between the United States and Venezuela, and in such case could not fail to provoke earnest remonstrance and suggest undesirable countervailing measures if insisted upon.

With the correspondence contained in the Foreign Relations for 1882 and 1883 before you, and with the light thrown on the subject by the archives of your legation, you have ample grounds and arguments for contesting the proposal of the Venezuelan Executive, and, if possible,

preventing its taking a shape so detrimental to the commercial interests of the United States and Venezuela.

I am, etc.,

T. F. BAYARD.

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No. 1116.

*Mr. Scott to Mr. Bayard.*

No. 194.] LEGATION OF THE UNITED STATES,
*Carácas, October* 17, 1887. (Received October 26.)

SIR: I have the honor to acknowledge the receipt of your No. 126, September 22, 1887, in reply to my No. 187, of the 3d ultimo, informing you of the contemplated action of Venezuela in closing her ports against the island of Curaçao, and thereby damaging and interfering with American commerce between the United States and Venezuela.

Since the writing and mailing of No. 187, the difficulty between Venezuela and Curaçao, has been amicably and satisfactorily adjusted by Curaçao complying partially with the request of Venezuela in expelling two of the three so-called revolutionists from her territory, and the action on the part of Curaçao has given satisfaction to Venezuela, and this matter has now ended, which, when I wrote, threatened serious trouble.

I am gratified, however, to receive the views and instructions embodied in your No. 126, and in the event of a repetition of this difficulty I will know how to act promptly and advisedly in protecting American interests.

I have, etc.,

CHARLES L. SCOTT.

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No. 1117.

*Mr. Bayard to Mr. Scott.*

No. 136.] DEPARTMENT OF STATE,
*Washington, November* 8, 1887.

SIR: I have received your No. 194, of the 17th ultimo, by which it appears that the difficulty between Venezuela and Curaçao has been adjusted and that the ports of Venezuela will not be closed against Curaçao, thus removing the ground of complaint considered in the instruction sent you on September 22 last. Nevertheless, the principles involved being no less important, you will please take occasion some time in conversation to refer to the subject, stating the views of your Government in the premises, and saying further that the formal protest which you had been instructed to make was not communicated in writing, only because the anticipated action of the Venezuelan Government had not been carried out, though, should occasion arise, the rights contended for would be insisted on.

I am, etc.,

T. F. BAYARD.

No. 1118.

*Mr. Scott to Mr. Bayard.*

No. 204.] LEGATION OF THE UNITED STATES,
*Carácas, November* 30, 1887. (Received December 13.)

SIR: I have the honor to acknowledge the receipt of your No. 136, in relation to the closing of the ports of Venezuela against Curaçao, and to state that I will avail myself of the first opportunity to make known to the Venezuelan Government, through Dr. Urbaneja, minister of exterior relations, your views on this subject, as expressed in your No. 126, and dated Washington, September 22, 1887, thus carrying out the instructions embraced in your No. 136.

I am, etc.,

CHARLES L. SCOTT.

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No. 1119.

*Mr. Scott to Mr. Bayard.*

No. 210.] LEGATION OF THE UNITED STATES,
*Carácas, December* 23, 1887. (Received January 4, 1888.)

SIR: I beg leave to inform you that at an interview had with Dr. Urbaneja, minister of foreign affairs of Venezuela, I availed myself of the opportunity to carry out your instruction contained in your No. 136, and dated Washington, November 8, 1887, and made known to him the views of our Government on the closing of the ports of Venezuela against Curaçao as embodied and expressed in your No. 126, and dated Washington, September 22, 1887.

Dr. Urbaneja remarked that this difficulty had been settled, and there was now no cause of apprehension of damage to the commerce of the United States. I replied that I was aware of that fact, but that my Government was looking to the future and the principle involved in this matter. He then indicated that he concurred in your views, and gave assurances that no damage would be done to American commerce in the event of coming difficulty between Venezuela and Curaçao, and the closing of the ports of the former against the latter.

I have, etc.,

CHARLES L. SCOTT.

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No. 1120.

*Mr. Bayard to Mr. Scott.*

No. 156.] DEPARTMENT OF STATE,
*Washington, March* 22, 1888.

SIR: I inclose copy of a dispatch from our consul at Puerto Cabello complaining that he has been prevented from going on board American vessels at that port by Government officials, unfurnished with a permit in writing from the collector of the port.

You are instructed to make a courteous application to the Government of Venezuela to permit by some general regulation the consuls of

the United States to visit vessels of their nationality in their official capacity without a special permit from the local authorities.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 156.]

*Mr. Burke to Mr. Bives.*

No. 58.] UNITED STATES CONSULATE,
*Puerto Cabello, February* 29, 1888.

SIR: In my dispatch No. 28, of June 28, 1887, I had occasion to make complaint and enter protest against a certain official at this port for preventing my going aboard one of the American steamers without a written permit from the collector of the port; though from a reading of the dispatch referred to, you will observe I had verbal permission from General Arismendi, then collector, to go on board any American steamers whenever I chose or official duty called me. The official who stopped me on the gangway at that time knew of this fact. I now make a like complaint and enter a like protest for a like reason against such law or regulation as is in force at this port, and other ports throughout the country, so far as their application to a representative of the United States Government is concerned. On Friday last, November 24, while going on board the steam-ship *Philadelphia* of the "Red D Line," I was stopped by a custom-house official and told I would not be allowed to pass without a permit (written) from the collector of the port, though, as in the case referred to in dispatch No. 28, the recently appointed collector, Mr. Coronado, when courtesy compelled me to apply to him for a permit to discharge official duty on an American steam-ship, told me it was not necessary; I might feel at liberty to go on board any of the steam-ships at any time, when I chose. After the refusal by the custom-house official on Friday last to allow me to pass, I did not seek to obtain a written permit from the collector of the port; nor do I intend to do so, at least till hearing from the Department on the subject.

In reply to my dispatch No. 28, instructions No. 18, of July 19, 1887, Hon. James D. Porter, then Assistant Secretary of State, says:

"The regulation referred to is not in violation of the rules of international law which, in the absence of a treaty, govern our intercourse with Venezuela. You will have, therefore, to rely on the courtesy of the port officials for exemption from this restriction."

In this case the order prohibiting any person from going on board without a permit, or those on board, Americans and others, from leaving the ship without a like permit, came from the Government at Caracas, I am informed. Why? Because, as one of the officials stated to me, the political affairs of the country looked serious. And because the political affairs wear a serious look I can be prevented from discharging my official duty. Why should the seriousness on the political countenance of the country affect me? I had no word, nor hand, nor act, nor part in such an unusual thing as forcing the face of Venezuelan politics to assume so serious and so grave a look.

I am neither urging those who hold the reins of government to cling to them, nor aiding the party out of power to seek to upset the Government coach and in the general confusion to grasp these reins, if possible, and hold them for the next two years.

I have no further interest in the candidates or the party than the desire every good citizen of a Republic like ours should have to see this country so governed as to develop most rapidly its great resources and advance the people in moral, intellectual, and material prosperity. Because the President of this Republic suspects of being on board an American steamer a Venezuelan citizen who is regarded by him, at least is said to be, as revolutionary, because he, this Venezuelan citizen, is also a candidate for President, this appears to me no just reason why a representative of the United States Government should be reduced to the condition of a suppliant entreating a port official to grant him a permit to discharge a duty that no man or no government should attempt to prevent him from discharging, at least so long as the country in whose harbor the American ship is anchored is at peace with other countries and the normal state of things exists within the confines of the country itself.

There is no reason for such an act, especially as I have treated all the officials with courtesy and civility, and have engaged in no other business but that of a strict performance of my duty in such a manner as to offend no one, and personally have so conducted myself as to be above and beyond reproach.

There have been at least four different collectors appointed for this port during the past fifteen months. The next few months may bring a more abundant crop of changes. Now, the same humiliating courtesy in the matter of discharging one's offi-

tant question of international policy, but simply revives and continues a pending discussion of a matter of administrative regulation, the solution to which should not be far to seek.

I am, etc.,

T. F. BAYARD.

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No. 1126.

*Mr. Scott to Mr. Bayard.*

No. 255.] LEGATION OF THE UNITED STATES,
*Carácas, July* 31, 1888. (Received August 15.)

SIR: In compliance with instructions contained in your No. 166, dated Washington, June 5, 1888, in relation to the depositing of the ship's papers of United States vessels with the custom-house authorities of Venezuela instead of the United States consuls, I addressed note No. 148. embraced in inclosure No. 1, hereto attached, to Dr. Isturiz, minister of foreign relations. Hoping that note No. 148 will meet with your approval, I have, etc.,

CHARLES L. SCOTT.

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[Inclosure in No. 255.]

*Mr. Scott to Dr. Isturiz.*

No. 148.] LEGATION OF THE UNITED STATES,
*Carácas, July* 21, 1888.

SIR: I desire to inform your excellency that I have recently received instructions from my Government to renew the protest against the law of Venezuela requiring masters of vessels coming from foreign ports to deliver all the ship's papers to the custom-house authorities (the papers being then retained by the custom-house until the clearance of the vessel) and to ask that certain changes be made by the Venezuelan Government in said law that will place your Republic on the same basis and footing that other Governments and countries occupy in this matter.

I desire to call your excellency's attention to section 41 of the law of Venezuela requiring masters of foreign vessels to deliver up all and every one of the ship's papers to be kept by the administrator of the custom-house until the vessel leaves the port, and it is the earnest desire and wish of my Government that this law be so changed or amended that the ship's papers shall be delivered to the consul at the port of entry instead of the custom-house authorities as now provided by law.

This is not the first time that the right and justice of permitting the United States consul to retain the ship's papers instead of the custom-house authorities when a vessel enters a port of Venezuela has been presented to the consideration of your excellency's Government, for on the 10th of May, 1883, my predecessor, Mr. Baker, in a memorandum respecting the matter of the custody of foreign ship's papers while in the ports of Venezuela elaborately argued this question and submitted his views representing the sentiments and wishes of my Government, and which are embraced in said memorandum dated May 10, 1883, and ought to be on file in the foreign office of Venezuela, and to which I now respectfully call the attention of your excellency, making it a part of the argument of this legation in favor of the repeal or alterations of the law referred to. If your excellency is unable to find the memorandum of Mr. Baker among the files of your office it will afford this legation pleasure to furnish you a copy from its records.

This question, whether the ship's papers of a foreign vessel shall be placed into the hands of the custom-house authorities or those of the United States consul, has been the occasion of repeated discussions and remonstrance with various nations of South America for more than fifty years, and the United States Government has ever maintained that it is in strict consonance with the practice of nations and commercial interests that consular instead of custom-house authorities should have charge of the ship's papers of their respective countries, and I call the attention of your excellency

to the action of your sister Republic, Colombia, in 1876, on the subject. In 1876 a general movement of the foreign representatives at Bogota was made to secure the abrogation of a law which required the delivery of the papers of foreign vessels to the local port authorities. An arrangement thus concluded diplomatically set the matter at rest by recognizing the right of the consul of the ship's nationality to have the custody of the ship's papers of their national vessels, and the law has since been repealed.

As it has been stated by an American authority who stands most high in questions of international law, "the existing rule in Venezuela is deemed to be in contravention of the spirit of perfect equality and reciprocity of commerce and navigation between the two countries as stipulated in the abrogated treaty of 1836, and as pervading the existing treaty of 1860."

I would further state to your excellency that the law of the United States, following the usages of the most civilized countries, "provides that the custody of the papers of foreign ships shall rest with the consuls of their nations, and this because such custody is deemed essential to that consular control over national vessels which is stipulated in all our treaties."

Again, Venezuela ought not to expect or to ask the United States to yield to the authorities of a foreign state the control of our vessels whilst in her ports, for if this legation is not misinformed Venezuela has a law requiring her consuls to take charge of her ships' papers whilst in foreign ports, and if this be the case, your Government is strangely inconsistent in requiring Venezuelan consuls abroad to take charge of the papers of the vessels of their nation whilst denying a reciprocal right to foreign consuls in Venezuela. This fact alone should induce Venezuela to repeal the present existing law, for I am satisfied that your Government is in favor of the golden rule of "doing unto others as it would be done by." And besides this, your excellency, how can a United States consul exhibit the register and crew roll of an American vessel, under the twenty-sixth article of the treaty of 1860, in proceedings for the arrest of deserters, when he is not permitted under the law of Venezuela to have possession of those papers?

It has been well said that "a vessel under a civilized flag, on the high seas or in a foreign port, possesses a national life, of which its papers are the strongest evidence. They are to all intent a part of the vessel itself. To assume that by the act of entering a friendly port a vessel is to be stripped of that which is in a large measure essential to the proof of its nationality, and to await the pleasure of a local foreign officer before such part of its life can be restored to it, is inconsistent with international principle and usage," and violates the comity between nations by inciting a painful feeling and spirit of suspicion and distrust.

In addition to the foregoing reasons why Venezuela should repeal this obnoxious law, so hurtful to the commercial interest of my country, is the fact that its operations and workings are not only annoying and vexatious, but productive of harm and injury by the loss of important ships' papers whilst in the custody of the custom-house authorities of Venezuela, for I am informed that at the port of Maracaibo "ships' papers of several American vessels have been lost by the custom-house officials; the vessels have been compelled to leave without them," provided with a certificate from the United States consul at that port. And the United States consul at that port represents to his Government that "if the law is not changed it will be impossible for consular officers to do their duty strictly, and serious inconvenience may happen to vessels in case the ship's register should be lost, which would not happen if the ship's papers were duly deposited at the consulate."

In view of the foregoing presentation of this matter to your excellency, I would respectfully ask that the present administration of the Government of Venezuela take under consideration and advisement this renewal of the protest on the part of my Government in its application to have this law giving your custom-house authorities charge of United States ships' papers repealed, and pass a law, as its substitute, in conformity to the law, custom, and usage of other nations on the subject.

Assuring your excellency that such an act on the part of Venezuela would be very gratifying to my Government as an evidence of her desire to expedite and facilitate commercial relations between our two countries, I am, your excellency, with renewed assurance, etc.,

CHARLES L. SCOTT.

# CIRCULARS.

## No. 1127.

DEPARTMENT OF STATE,
*Washington*, ——— —, 18—.

*To* ——— ———,
——— ———:

SIR: In reply to your letter of ——— —, relating to the return of naturalized citizens of the United States to their native country, I send you the following circular, which contains all the information the Department is competent to give in regard to the subject of your inquiry.

I am, sir, your obedient servant,

——— ———.

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[Circular.]

*Citizenship and naturalization.*

Treaties regulating the rights of persons who have emigrated from the territory of one of the contracting parties and have been naturalized in that of the other party have been concluded between the United States and the following powers: Austria-Hungary, Baden, Bavaria, Belgium, Denmark, Ecuador, Great Britain, Hesse Darmstadt, the North German Union, Sweden and Norway, and Wurtemburg.

The treaties with Austria-Hungary, Baden, Bavaria, Hesse Darmstadt, the North German Union, and Wurtemberg provide that citizens or subjects of these powers who have become naturalized citizens of the United States, and have resided therein "uninterruptedly" for five years, shall be held to be citizens of the United States, and shall be treated as such. The treaty with Sweden and Norway provides for similar treatment of subjects who have resided in the United States "for a continuous period of at least five years, and during such residence have become naturalized citizens of the United States."

The treaties with Belgium, Denmark, Ecuador, and Great Britain recognize citizenship whenever acquired under our laws.

The exceptions to the requisition of five years' residence under our statutes are:

1. Soldiers who have been honorably discharged from the armies of the United States. Such persons, being of the age of twenty-one years and upwards, may be naturalized without any previous declaration of intention to become citizens, and without being required to prove more than one year's residence in the United States previous to their application (see section 21 of act of Congress of July 17, 1862, 12 Statutes at Large, p. 597). An erroneous notion has to some extent prevailed that the mere facts of service and discharge are equivalent to naturalization, whereas they are only part of the evidence on which naturalization may be granted.

2. Seamen who have declared their intention to become citizens, and who, subsequently to such declaration, have served three years on board of a merchant vessel of the United States, may be admitted to citizenship.

"And every seaman * * * shall, after his declaration of intention to become a citizen, * * * and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States * * *; but such seaman shall, for all purposes of protection as an American citizen, be deemed such after the filing of his declaration of intention." * * * (Act of June 7, 1872; Rev. Stats., sec. 2174.)

3. The children of persons duly naturalized, being under twenty-one years of age at the time of their parents being so naturalized, are, if dwelling within the United States, considered as citizens. (Act of April 14, 1802; Rev. Stats., sec. 2172.)

4. Persons born out of the limits and jurisdiction of the United States whose fathers at the time of such birth were citizens of the United States; and

5. Women married to citizens of the United States. (Act of February 10, 1855; Rev. Stats., sec. 1994.)

It has been decided (7 Wallace, 496) that the state of marriage confers citizenship on the wife, whether the citizenship of the husband existed at the time of the marriage or was subsequently acquired. It has also been provided (Rev. Stats., sec. 2168) that when any alien who has duly declared his intention to become a citizen dies before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such on taking the oaths prescribed by law.

In the explanatory protocols annexed to some of the treaties it is stated that the words "resided uninterruptedly" are to be understood, not of a continued bodily presence, but in the sense of general residence; and therefore a transient absence, subordinated to such residence, by no means interrupts the period of "five years" contemplated by such treaties. It is presumed that this construction will be accepted by the other powers which have not in terms announced their assent thereto.

The treaties referred to generally contain a provision that "the declaration of an intention to become a citizen of one or the other country has not for either party the effect of naturalization." But, aside from the treaties, the issuing of passports to any other persons than citizens of the United States was, and still remains, prohibited by act of Congress.

The treaties in some cases provide that if a subject of the other contracting party, who has been naturalized in the United States, renews his residence in the country of his original allegiance, without the intent to return to the United States, he shall be held to have renounced his naturalization in the United States. It has also been repeatedly held by the Department of State that residence in a foreign land, entered on and continued in as a permanence, without the intention of returning being shown, precludes one who may be nominally a citizen of the United States from obtaining the interposition of the Government of the United States in his behalf in a claim against a foreign state. It has also been held that an avoidance in such cases of taxes or other obligations due the United States is a fact from which an abandonment of allegiance may be inferred. The intention not to return is assumed in some of the treaties to be established when the person naturalized in the one country resides in the other country more than two years, but this presumption may be rebutted.

The pertinent provisions of the treaties in regard to renunciation of naturalization are given in Appendix A.

Several of the treaties further provide that a naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, saving, always, the limitation established by the laws of his original country; some of them, for, example, Baden, Bavaria, and Wurtemberg, add "or any other remission of liability to punishment."

The ministers of justice and the interior of the North German Union have issued circular instructions to the effect that the punishable action committed by the unauthorized emigration of a subject shall not be made the ground for a penal prosecution upon the return of such person to his former country after an absence of not less than five years and his naturalization in the United States. A similar intention is declared in the explanatory protocol accompanying the treaty with Bavaria, and it may reasonably be expected that the other powers with whom we have treaties on this subject will construe them with the same liberality.

Inquiries are constantly received at the Department from naturalized citizens of the United States for advice as to whether they would be likely to encounter molestation should they return to their native country. Following a uniform and necessary rule, the Department declines to give opinions on the merits of hypothetical cases so presented, involving questions of foreign laws and policies, the interpretation of which is not within its province.

Liability to prosecutions for military or other offenses committed prior to emigration is not, as a rule, affected by the naturalization of the offender. Such provisions as are found in the treaties on this subject are given in Appendix B. The various offenses and penalties therefor, and the limitations upon prosecutions, being matters of foreign municipal law, are necessarily outside the advisory province of this Department.

In respect to those countries with which we have no naturalization treaties, it is necessary to speak with great reserve. It would not be possible to give an interpretation to foreign laws, even if their entire text were in our possession. The construction of those laws belongs to the judicial tribunals of the countries in which they are promulgated. It must be understood, therefore, that what follows is collected from authors of good repute and other unofficial sources, and is given only as such, but

without affirming its authority. With this qualification the following statements may be made:

*France.*—By the laws of France a French citizen can not expatriate himself and change his allegiance without obtaining the consent of his Government. He may lose his national character, however, by doing several acts, among which is the unauthorized seeking or accepting of foreign citizenship. By such a transfer of allegiance he loses his claim to French citizenship, and subjects himself to certain disabilities. Unlike any other foreign citizen, for instance, he can not take up his residence in France without the authorization of the French Government, and if he attempts to do so he may be expelled.

No foreigner can serve in the French army. A Frenchman, therefore, who has been naturalized in the United States can not be held to perform military service in France. But this exemption can be secured only by administrative or judicial act. The son of every Frenchman is registered at the place of his birth, if born in France, or at the place of his family's residence, if born abroad, as liable to military service. This registration forms in each commune a recruiting list, and when the time comes each person on the list is notified to present himself at a designated place. If he fails to report when called upon, he is charged with insubmission (*délit d'insoumission*), and his name and description are given to the police authorities, with the order to arrest him when found. If he has been naturalized abroad, he is still liable to arrest immediately on his return to France. If he pleads that he has renounced his original nationality, he is required to go before a civil tribunal, and show by properly authenticated papers that his naturalization was in conformity with the law of the country in which it was effected. If the tribunal is satisfied on this point, it adjudges him to have lost "the quality of a Frenchman," and the defendant then goes back to the council of war. Here his name is definitely erased from the military rolls. But he is nevertheless tried for the offense of insubmission committed before he could legally have thrown off his original allegiance. If three years have elapsed since the day he was fully naturalized, he is discharged. If such a period has not elapsed he falls under the operation of the law punishing insubmission, and is sentenced to a fine or to a few weeks' or months' imprisonment, perhaps to both, according to the circumstances of the case. Whether punished or not, he is turned over, after his release, to the civil authorities. If he is supposed to be a bona fide citizen, he is not interfered with; but if suspected of having acquired his foreign citizenship to escape military service, he is at once ordered to leave France (see dispatch of Mr. Vignaud to Mr. Frelinghuysen, No. 665, November 13, 1884). In any event he may be subjected to the costs of the proceedings.

Spain and Greece treat nationality as lost by naturalization in a foreign country, or by entering without license into its civil or military service. In the ultramarine provinces of Spain no one considered as a foreigner by Spanish law is subject to military service. Foreigners are also exempt there from personal service in the municipal guards. But domiciled residents who have their own houses are subject to charges for furnishing lodging and transportation.

Italy still holds to the indissolubility of natural allegiance, unless the consent of the sovereign be obtained to the renunciation. (For. Rel. U. S., 1878, pp. 458, 459, 469.) Hence naturalization abroad, without the King's permission, does not exempt from conscription for military service.

In Switzerland it has been held that naturalization in the United States, when preceded by an accepted renunciation of Swiss allegiance, dissolves such allegiance. (For. Rel. U. S., 1879, p. 973.)

A Russian subject can not emigrate or become naturalized in a foreign country without the permission of the Emperor. If he does so he commits an offense for which he may be subjected to a fine or exile. The application of this penalty is his only guaranty against his being compelled to stand the chances of the lot for the annual supply of recruits. By a law of January 1, 1874, Russian subjects are forbidden to throw off their allegiance until they have performed their military service. This law applies to all subjects above the age of fifteen.

A subject of the Ottoman Empire can not divest himself of that character without the authority of the Imperial Government. If, without such authority, he accepts a foreign naturalization, it is regarded as of no effect, both in reference to himself and to his children. Every person who obtains naturalization abroad, or enters a foreign military service, without the permission of the Sultan, may be declared to have forfeited his Ottoman character, and in that case is altogether interdicted from returning to the Ottoman Empire.

Directions for procuring passports may be obtained by addressing the Department of State, Passport Bureau, Washington, D. C.

## APPENDIX A.

### AUSTRIA-HUNGARY.

ART. IV. The emigrant from the one state who, according to article 1, is to be held as a citizen of the other state, shall not, on his return to his original country, be constrained to resume his former citizenship; yet if he shall of his own accord re-acquire it and renounce the citizenship obtained by naturalization, such a renunciation is allowable, and no fixed period of residence shall be required for the recognition of his recovery of citizenship in his original country.

### BADEN.

ART. IV. The emigrant from the one state who, according to the first article, is to be held as a citizen of the other state, shall not, on his return to his original country, be constrained to resume his former citizenship; yet if he shall of his own accord reacquire it and renounce the citizenship obtained by naturalization, such a renunciation is allowed, and no fixed period of residence shall be required for the recognition of his recovery of citizenship in his original country.

### BAVARIA.

ART. IV. If a Bavarian, naturalized in America, renews his residence in Bavaria, without the intent to return to America, he shall be held to have renounced his naturalization in the United States. Reciprocally, if an American, naturalized in Bavaria, renews his residence in the United States, without the intent to return to Bavaria, he shall be held to have renounced his naturalization in Bavaria. The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

*Protocol—Relating to article 4 of the treaty.*—(1) It is agreed on both sides that the regulative powers granted to the two Governments respectively by their laws for protection against resident aliens, whose residence endangers peace and order in the land, are not affected by the treaty. In particular the regulation contained in the second clause of the tenth article of the Bavarian military law of the 30th of January 1868, according to which Bavarians emigrating from Bavaria before the fulfillment of their military duty can not be admitted to a permanent residence in the land till they shall have become thirty-two years old, is not affected by the treaty. But yet it is established and agreed that by the expression "permanent residence," used in the said article, the above-described emigrants are not forbidden to undertake a journey for Bavaria for a less period of time and for definite purposes, and the Royal Bavarian Government moreover cheerfully declares itself ready, in all cases in which the emigration has plainly taken place in good faith, to allow a mild rule in practice to be adopted.

(2) It is hereby agreed that when a Bavarian naturalized in America, and reciprocally an American naturalized in Bavaria, takes up his abode once more in his original country without the intention of return to the country of his adoption, he does by no means thereby recover his former citizenship; on the contrary, in so far as it relates to Bavaria, it depends on His Majesty the King whether he will or will not in that event grant the Bavarian citizenship anew.

The article fourth shall accordingly have only this meaning, that the adopted country of the emigrant can not prevent him from acquiring once more his former citizenship; but not that the state to which the emigrant originally belonged is bound to restore him at once to his original relation. On the contrary, the citizen naturalized abroad must first apply to be received back into his original country in the manner prescribed by its laws and regulations, and must acquire citizenship anew, exactly like any other alien. But yet it is left to his own free choice whether he will adopt that course or will preserve the citizenship of the country of his adoption. The two plenipotentiaries give each other mutually the assurance that their respective Governments, in ratifying this treaty, will also regard as approved and will maintain the agreements and explanations contained in the present protocol without any further formal ratification of the same.

### BELGIUM.

ART. IV. Citizens of the United States naturalized in Belgium shall be considered by Belgium as citizens of the United States when they shall have recovered their character as citizens of the United States according to the laws of the United States. Reciprocally, Belgians naturalized in the United States shall be considered as Belgians by the United States when they shall have recovered their character as Belgians according to the laws of Belgium.

DENMARK.

ART. II. If any such citizen of the United States, as aforesaid, naturalized within the Kingdom of Denmark as a Danish subject, should renew his residence in the United States, the United States Government may, on his application, and on such conditions as that Government may see fit to impose, re-admit him to the character and privileges of a citizen of the United States, and the Danish Government shall not, in that case, claim him as a Danish subject on account of his former naturalization. In like manner, if any such Danish subject, as aforesaid, naturalized within the United States as a citizen thereof, should renew his residence within the Kingdom of Denmark, His Majesty's Government may, on his application, and on such conditions as that Government may think fit to impose, re-admit him to the character and privileges of a Danish subject, and the United States Government shall not, in that case, claim him as a citizen of the United States on account of his former naturalization.

ART. III. If, however, a citizen of the United States, naturalized in Denmark, shall renew his residence in the former country without the intent to return to that in which he was naturalized, he shall be held to have renounced his naturalization. In like manner, if a Dane, naturalized in the United States, shall renew his residence in Denmark without the intent to return to the former country, he shall be held to have renounced his naturalization in the United States. The intent not to return may be held to exist when a person naturalized in the one country shall reside more than two years in the other country.

ECUADOR.

ART. II. If a naturalized citizen of either country shall renew his residence in that where he was born, without an intention of returning to that where he was naturalized, he shall be held to have re-assumed the obligations of his original citizenship, and to have renounced that which he had obtained by naturalization.

ART. III. A residence of more than two years in the native country of a naturalized citizen shall be construed as an intention on his part to stay there, without returning to that where he was naturalized. This presumption, however, may be rebutted by evidence to the contrary.

GREAT BRITAIN.

ART. II. Such citizens of the United States as aforesaid who have become and are naturalized within the dominions of Her Britannic Majesty as British subjects, shall be at liberty to renounce their naturalization and to resume their nationality as citizens of the United States, provided that such renunciation be publicly declared within two years after the exchange of the ratifications of the present convention. Such British subjects as aforesaid who have become and are naturalized as citizens within the United States shall be at liberty to renounce their naturalization and to resume their British nationality, provided that such renunciation be publicly declared within two years after the 12th day of May, 1870. The manner in which this renunciation may be made and publicly declared shall be agreed upon by the Governments of the respective countries.

ART. III. If any such citizen of the United States as aforesaid, naturalized within the dominions of Her Britannic Majesty, should renew his residence in the United States, the United States Government may, on his own application and on such conditions as that Government may think fit to impose, re-admit him to the character and privileges of a citizen of the United States, and Great Britain shall not in that case claim him as a British subject on account of his former naturalization. In the same manner, if any such British subject as aforesaid naturalized in the United States should renew his residence within the dominions of Her Britannic Majesty, Her Majesty's Government may, on his own application, and on such conditions as that Government may think fit to impose, re-admit him to the character and privileges of a British subject, and the United States shall not in that case claim him as a citizen of the United States on account of his former naturalization.

HESSE-DARMSTADT.

ART. IV. If a Hessian, naturalized in America, but originally a citizen of the parts of the Grand Duchy not included in the North German Confederation, renews his residence in those parts without the intent to return to America, he shall be held to have renounced his naturalization in the United States. Reciprocally, if an American, naturalized in the Grand Duchy of Hesse (within the above-described parts), renews his residence in the United States without the intent to return to Hesse, he shall be held to have renounced his naturalization in the Grand Duchy. The intent not to return may be held to exist when the person naturalized in one country resides more than two years in the other country.

NORTH GERMAN UNION.

ART. IV. If a German naturalized in America renews his residence in North Germany without the intent to return to America, he shall be held to have renounced his naturalization in the United States. Reciprocally: If an American naturalized in North Germany renews his residence in the United States without the intent to return to North Germany, he shall be held to have renounced his naturalization in North Germany. The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

SWEDEN AND NORWAY.

ART. III. If a citizen of the one party, who has become a recognized citizen of the other party, takes up his abode once more in his original country and applies to be restored to his former citizenship, the government of the last-named country is authorized to receive him again as a citizen, on such conditions as the said government may think proper.

*Protocol.*—III. Relating to the third article of the convention. It is further agreed that if a Swede or a Norwegian, who has become a naturalized citizen of the United States, renews his residence in Sweden or Norway without the intent to return to America, he shall be held by the Government of the United States to have renounced his American citizenship. The intent not to return to America may be held to exist when the person so naturalized resides more than two years in Sweden or Norway.

WÜRTEMBERG.

ART. IV. If a Würtemberger, naturalized in America, renews his residence in Würtemberg without the intent to return to America, he shall be held to have renounced his naturalization in the United States. Reciprocally: If an American naturalized in Würtemberg renews his residence in the United States without the intent to return to Würtemberg, he shall be held to have renounced his naturalization in Würtemberg. The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

## APPENDIX B.

AUSTRIA-HUNGARY.

ART. II. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country committed before his emigration, saving always the limitation established by the laws of his original country and any other remissions of liability to punishment. In particular, a former citizen of the Austro-Hungarian monarchy, who under the first article is to be held as an American citizen, is liable to trial and punishment according to the laws of Austro-Hungary for non-fulfillment of military duty—

(1) If he has emigrated, after having been drafted at the time of conscription, and thus having become enrolled as a recruit for service in the standing army.

(2) If he has emigrated whilst he stood in the service under the flag, or had a leave of absence only for a limited time.

(3) If, having a leave of absence for an unlimited time or belonging to the reserve or to the militia, he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out.

On the other hand, a former citizen of the Austro-Hungarian monarchy naturalized in the United States, who by or after his emigration has transgressed the legal provisions on military duty by any acts or omissions other than those above enumerated in the clauses numbered 1, 2, and 3, can, on his return to his original country, neither be held subsequently to military service nor remain liable to trial and punishment for the non-fulfillment of his military duty.

BADEN.

ART. II. A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration, saving always the limitation established by the laws of his original country, or any other remission of liability to punishment. In particular, a former Badener who, under the first article, is to be held as an American citizen, is liable to trial and punishment according to the laws of Baden for non-fulfillment of military duty—

(1) If he has emigrated after he, on occasion of the draft from those owing military duty, has been enrolled as a recruit for service in the standing army.

(2) If he has emigrated whilst he stood in service under the flag, or had a leave of absence only for a limited time.

(3) If, having a leave of absence for an unlimited time, or belonging in the reserve or to the militia, he has emigrated after having received a call into service, or after a public proclamation requiring his appearance, or after war has broken out.

On the other hand, a former Badener, naturalized in the United States, who, by or after his emigration, has transgressed or shall transgress the legal provisions on military duty by any acts or omissions other than those above enumerated in the clauses numbered 1 to 3, can, on his return to his original country, neither be held subsequently to military service nor remain liable to trial and punishment for the non-fulfilment of his military duty. Moreover, the attachment on the property of an emigrant for non-fulfillment of his military duty, except in the cases designated in the clauses numbered 1 to 3, shall be removed so soon as he shall prove his naturalization in the United States according to the first article.

BAVARIA.

ART. II. A naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration, saving always the limitation established by the laws of his original country, or any other remission of liability to punishment.

*Protocol.—Relating to the second article of the treaty.*—(1) It is expressly agreed that a person who, under the first article, is to be held as an adopted citizen of the other state, on his return to his original country, can not be made punishable for the act of emigration itself, not even though at a later day he sholud have lost his adopted citizenship.

BELGIUM.

ART. II. Citizens of either contracting party, in case of their return to their original country, can be prosecuted there for crimes or misdemeanors committed before naturalization, saving to them such limitations as are established by the laws of their original country.

ART. III. Naturalized citizens of either contracting party who shall have resided five years in the country which has naturalized them, cannot be held to the obligation of military service in their original country, or to incidental obligation resulting therefrom, in the event of their return to it, except in cases of desertion from organized and embodied military or naval service, or those that may be assimilated thereto by the laws of that country.

ECUADOR.

ART. IV. Naturalized citizens of either country, on returning to that where they were born, shall be subject to trial and punishment according to the laws, for offenses committed before their emigration, saving always the limitations established by law.

HESSE-DARMSTADT.

ART. II. A naturalized citizen of the one party on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration, saving always the limitation established by the laws of his original country.

NORTH GERMAN UNION.

ART. II. A naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration, saving always the limitation established by the laws of his original country.

SWEDEN AND NORWAY.

ART. II. A recognized citizen of the one party, on returning to the territory of the orther, remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration, but not for the emigra-

tion itself, saving always the limitation established by the laws of his original country, and any other remission of liability to punishment.

*Protocol.—Relating to the second article of the convention.*—If a former Swede or Norwegian, who under the first article is to be held as an adopted citizen of the United States of America, has emigrated after he has attained the age when he becomes liable to military service, and returns again to his original country, it is agreed that he remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration, but not for the act of emigration itself, unless thereby has been committed any punishable action against Sweden or Norway, or against a Swedish or Norwegian citizen, such as non-fulfillment of military service, or desertion from the military force or from a ship, saving always the limitation established by the laws of the original country, and any other remission of liability to punishment; and that he can be held to fulfill, according to the laws, his military service, or the remaining part thereof.

WURTEMBERG.

ART. II. A naturalized citizen of the one party on return to the territory of the other party remains liable to trial and punishment for an action punishable by the laws of his original country, and committed before his emigration, saving always the limitation established by the laws of his original country, or any other remission of liability to punishment.

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## No. 1128.

*To the consular officers of the United States at sea-ports.*

[Circular.]

DEPARTMENT OF STATE,
*Washington, March* 13, 1888.

GENTLEMEN: An important question has recently arisen in regard to the precise meaning of the term "American seamen," or "seamen of the United States," as used in our statutes. The question arose in considering the right of one Caspar Klypool, an alien, shipped as a seaman on an American vessel in the United States for a voyage terminating in a foreign country, and who had been injured on the voyage, to receive relief in such foreign port on the termination of the voyage, and to be returned to the United States.

For your instruction and guidance a part of the correspondence on this subject between this Department and the Treasury Department is hereto appended.

The conclusions reached by this Department, and concurred in by the Treasury Department (as more fully appears in the appended letters), are as follows:

(1) A seaman of foreign nationality who ships in an American vessel in a port of the United States, with intent to attach himself for an indefinite though not necessarily a long time to the American merchant service, becomes thereby a seaman of the United States within the meaning of the statute and regulations authorizing the relief and transportation, at Government expense, of destitute seamen to the United States; and he retains that character, with its privileges, until divested of it by taking service in a foreign vessel, or by abandonment of the seaman's calling.

(2) The act of August 3, 1882, for the exclusion of pauper immigrants, has no application to this class of persons, when transported hither at the expense of this Government; and such a seaman, so returned, can not be lawfully refused admittance by the port authorities, on the ground

that he is a foreigner without the means or ability to take care of himself, and is likely to become a public charge.

Your attention is called to that part of the appended letter of the Secretary of the Treasury which suggests that it would be advisable for returned seamen to bear a certificate from the forwarding consular officer to be exhibited to the examining officers of the home port.

I am, gentlemen, your obedient servant,

G. L. RIVES,
*Assistant Secretary.*

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[Inclosure 1.]

*Mr. Bayard to Mr. Fairchild.*

DEPARTMENT OF STATE,
*Washington, February* 11, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 16th of December, 1887, in which you state the reasons why Caspar Klypool, a foreigner who had shipped on an American vessel in the port of San Francisco "for the run" to Liverpool, and been relieved and given passage to the United States as a destitute American seaman, by our consul at the latter port, was refused admittance in the port of New York, and sent back to Liverpool.

A copy of your letter was sent to the consul at Liverpool, and has elicited from him an inquiry as to his duty hereafter when seamen of foreign nationality come upon the consulate in a destitute condition from American vessels on which they have shipped in an American port for a voyage or period that ends at Liverpool.

In view of the fact that this is a question of great practical importance, upon which perfect harmony of opinion and action should exist in the two Departments, I have the honor to request an interchange of views upon it.

As an expression of the conclusion reached by this Department after some consideration, I beg to submit the proposition that a seaman of foreign nationality who ships on an American vessel in a port of the United States, with an intent to attach himself to the American merchant service for an indefinite, though not necessarily long period, becomes a seaman of the United States, within the meaning of section 4577 of the Revised Statutes, and retains that character with its privileges, until divested of it by taking service on a foreign vessel, or by abandonment of his calling.

In the leading case of Matthews *vs.* Offley, 3 Sumn., 115, Judge Story says, "that where a foreign seaman has once acquired a domicile in the United States, and is engaged in our merchant service, and retains * * * the habits of that service, and upon every discharge from one ship still has the *animus revertendi* to that service and domicile, he must be treated as intending to retain his acquired character of an American seaman and his acquired American domicile.

"Some overt act on his own part, such as engaging in some foreign service, or resuming his original native character, or disowning his American character and domicile, seems to me indispensable to rebut the presumption that he still attaches himself to the American service."

A sailor is a citizen of the world, and can acquire in his vagrant career only that sort of domicile which the nationality of the ship which is his place of abode gives him.

More than half of our merchant seamen, this Department is informed, are foreigners, and during the last half century they have been deemed, when shipping in our ports and upon our vessels, as "mariners and seamen of the United States," and entitled as such to the protection of our laws.

So generally are they regarded in the character they have assumed that almost invariably they are entered on the crew lists as of the United States.

The Consular Regulations of 1855 (par. 122), following a decision of Judge Minot, Fifth Auditor of the Treasury during that year, state "that * * * all foreigners regularly shipped in American vessels at any port in the United States are to be regarded as American seamen and citizens, within the provisions" of the statutes relative to discharge, relief, and transportation to the United States. The successive editions of the Consular Regulations from that time to the present, including the edition now in press, have contained substantially the same provisions (see paragraph 199 of the edition of 1881). During that entire period our consular officers have acted in conformity with these instructions, discharging such seamen as were entitled to discharge, relieving the necessities of those found destitute, and furnishing passages

to the United States to such as were unable, from any cause, to reship, and were desirous of returning to the United States for that purpose.

The fact of shipment in a port of the United States has been deemed presumptive evidence of attachment to the American service, and the application for transportation to the United States, in case of inability to reship on an American vessel in the port of discharge, has been accepted as sufficient proof of intent to continue in the American service to entitle the foreigner to the benefit of our laws.

There may be individual cases where it is apparent to the consul that the seaman is in the habit, when out of employment, of shipping in any vessel the master of which will engage him, wholly indifferent as to the place or country to which she belongs, or as to the part of the world in which he may find himself when the contract is at an end; but such cases are exceptional, and do not affect the general rule, only suspending its application in the particular instances.

It is universally conceded that a citizen seaman, when unable by reason of sickness, hurt, or injury, to reship after his discharge in a foreign port, retains his character and rights as an American seaman until he is cured, or from lapse of time or other circumstances, his abandonment of that character is presumed.

It is the opinion of this Department, adopting the language of the forthcoming edition of the Consular Regulations, that "A foreign seaman, having shipped on an American vessel at a port of the United States, is entitled to extra wages on his discharge in a foreign port, in all cases where a seaman who is a citizen would be so entitled, and on such discharge he may be relieved and returned to the United States."

* * * * * * *

In reference to the act of August 3, 1882, for the exclusion of criminal and pauper immigrants, I beg, in closing, to say that this statute has been heretofore understood in this Department to be confined in its application to immigrants, persons who have come to stay, not to seafaring men, who come only to reship and go to sea again; not even when the seaman is temporarily unable to reship. This view derives some support, by analogy, from the opinion of the Attorney-General, rendered to your Department December 26, 1886, that Chinese servants who come to this country on a visit with their employers are not within the provisions of the Chinese immigration act, because they do not come to stay, and can not be considered immigrants.

I have the honor to be, sir, your obedient servant,

T. F. BAYARD.

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[Inclosure 2.]

*Mr. Fairchild to Mr. Bayard.*

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
*Washington, D. C., February* 28, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, referring to the late case of Caspar Klypool, and requesting an interchange of views upon the question relating to seamen of foreign nationality who ship on American vessels in ports of the United States, and who may be returned to our ports under the provisions of section 4577, Revised Statutes.

This Department recognizes the correctness of the general proposition which you maintain respecting the standing of seamen of foreign nationality who have been employed on American ships, and concurs in the opinion that such seamen, when regularly returned to the United States under section 4577, Revised Statutes, should be exempt from the operation of the immigrant law.

In view of the examination and report required to be made by the commissioners charged with the administration of the local affairs of immigration at their respective ports under the provisions of section 2 of the immigrant act, it is suggested whether it would not be advisable for the returned seamen to bear a certificate from the consul or commercial agent to be exhibited to the examining officers.

Respectfully, yours,

C. S. FAIRCHILD,
*Secretary*

## No. 1129.

*To the diplomatic representatives to the United States accredited to the independent American states.*

DEPARTMENT OF STATE,
*Washington, July* 13, 1888.

SIR: At the present session of Congress an act was passed, to which the President's approval was given on the 24th of May last, by the terms of which the President is requested and authorized—

To invite the several Governments of the Republics of Mexico, Central and South America, Hayti, San Domingo, and the Empire of Brazil, to join the United States in a conference to be held at Washington, in the United States, at such time as he may deem proper, in the year 1889, for the purpose of discussing and recommending for adoption to their respctive Governments some plan of arbitration for the settlement of disagreements and disputes that may hereafter arise between them, and for considering questions relating to the improvement of business intercourse and means of direct communication between said countries, and to encourage such reciprocal commercial relations as will be beneficial to all and secure more extensive markets for the products of each of said countries.

It is also provided in the act referred to that, in forwarding the invitations to the said Governments, the President of the United States shall set forth that the conference is called to consider—

First. Measures that shall tend to preserve and promote the prosperity of the several American States.

Second. Measures toward the formation of an American customs union, under which the trade of the American nations with each other shall, so far as possible and profitable, be promoted.

Third. The establishment of regular and frequent communication between the ports of the several American States and the ports of each other.

Fourth. The establishment of a uniform system of customs regulations in each of the independent American States to govern the mode of importation and exportation of merchandise and port dues and charges, a uniform method of determining the classification and valuation of such merchandise in the ports of each country, and a uniform system of invoices, and the subject of the sanitation of ships and quarantine.

Fifth. The adoption of a uniform system of weights and measures, and laws to protect the patent-rights, copyrights, and trade-marks of citizens of either country in the other, and for the extradition of criminals.

Sixth. The adoption of a common silver coin, to be issued by each Government, the same to be legal tender in all commercial transactions between the citizens of all of the American States.

Seventh. An agreement upon and recommendation for adoption to their respective Governments of a definite plan of arbitration of all questions, disputes, and differences that may now or hereafter exist between them, to the end that all difficulties and disputes between such nations may be peaceably settled and wars prevented.

Eighth. And to consider such other subjects relating to the welfare of the several states represented as may be presented by any of said states which are hereby invited to participate in said conference.

I have to call your particular attention to the scope and object of the conference suggested, which, as will be observed, is consultative and recommendatory only. The proposed conference will be wholly without power to bind any of the parties thereto, and it is not designed to affect or impair in any degree the treaty relations now existing between any of the states who may be represented. The topics for discussion and deliberation are manifestly of profound importance, and it is believed that a friendly and frank exchange of views in relation to these subjects will be of practical use and, by mutual enlightenment, will materially promote that expansion and intimacy of social and commercial relations which must be fruitful of blessings to all concerned.

Certain topics are suggested as proper subjects for a comparison of views, but the field is expressly left open to any participant state to

bring before the conference such other subjects as may appear important to the welfare of the several states represented.

By direction, therefore, of the President of the United States and in his name, you will tender to the Governments* of the several Central American states, Hayti, and San Domingo a cordial invitation to be represented by such number of delegates as may seem to be convenient at the international conference to be convened as aforesaid in the city of Washington, on Wednesday, the 2d day of October of the coming year, 1889, it being understood, however, that in the disposition of questions to come before such conference no state shall be entitled to more than one vote, whatever be the number of delegates it may send.

You will make this invitation known by transmitting a copy of this note to the minister of foreign affairs of each of the countries to which you are accredited. You will also, in such manner as may seem most suitable, and with the use of such suggestions and expression of views as in your judgment are appropriate, make known the sincere desire and confident expectation of the President that this invitation will be received in the same spirit of friendship and deference by which it has been prompted.

I am, sir, your obedient servant,

T. F. BAYARD.

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No. 1130.

*To the diplomatic officers of the United States in Europe.*

[Circular.]

DEPARTMENT OF STATE,
*Washington, July* 26, 1888.

GENTLEMEN: At the instance of the Treasury Department of the United States, you are instructed to procure from the Government to which you are accredited any reports or publications relative to the life-saving institutions on the sea-coasts of Europe. The official designation and post-office address of all such societies is particularly desired, as well as the names and style of their officials, with a view to correspondence with each institution. The Treasury Department will be happy to reciprocate by furnishing all the publications of its own Life-Saving Service.

All replies on this subject should be sent in such a form as to be directly transmitted to the Treasury Department without copying.

I am, gentlemen, your obedient servant,

T. F. BAYARD.

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No. 1131.

*To the diplomatic officers of the United States accredited to the maritime powers.*

No. —.]

DEPARTMENT OF STATE,
*Washington, July* 30, 1888.

SIR: An act of Congress approved by the President on the 9th instant, provided for an international marine conference to secure greater

*A similar invitation was sent to the Governments of the Empire of Brazil, of the Republic of Mexico, and of the Republics of South America.

safety for life and property at sea. By this act the President is requested to invite the other maritime powers to take part in a conference, the objects of which are, in brief, to revise the present international regulations for preventing collisions at sea, especially with reference to signaling in fog; to revise the existing code of signals; to compare and discuss the various systems employed for the saving of life and property from shipwreck; to devise methods of reporting, marking, and removing dangerous wrecks and obstructions to navigation; and to establish uniform means of conveying to mariners warnings of storms and other information.

The great interest and importance of these subjects justify an extended reference to the principal objects of the proposed conference and to the steps already taken in the same direction.

Between 1863 and 1865 thirty-four of the principal maritime nations approved and made statutory a code of laws similar in all respects to that adopted by Great Britain in 1862 for preventing collisions at sea, thus responding to the invitation put forth by that Government in 1863 to examine that code in the interests of commerce at large, and to adopt the same or like legislation if deemed suitable, according to their several needs.

Subsequently, in the light of experience tending to show the inadequacy of the statutes in question for the practical requirements of commerce, and acting upon a revised draft of laws formulated by a commission appointed by the British Government, and by it submitted for the consideration of the maritime powers, most of the governments interested accepted and approved the amended code, and united in giving it effect on the 1st of September, 1880.

During the decade which has elapsed since that code, now generally in operation on the high seas and in the jurisdictional waters of the several enacting states, was framed and considered, a growing tendency is manifest to regard it as inadequate to the present needs of commerce, and especially in respect to the sound signals for use in fog, mist, or falling snow. The increasing number and speed of steam-vessels has greatly added to the dangers of collision in thick weather, and the opinion has recently been expressed by the best authorities that the present system of signals for steam-vessels is insufficient.

The present international code of flag signals, which has been in use since its origin in 1856, is also believed to need careful revision. Experience has shown the necessity of extending the list of names of places and of words and conventional phrases, as well as the advisability of considering whether greater rapidity and accuracy in day and night signaling can not be attained.

With respect to the protection of life and property from shipwreck, no general international agreement in regard to on and off shore signaling, or as to the *modus operandi* of the life-saving service of different nations, is known to exist. In spite of the utmost efforts of those engaged in the Life-Saving Service of the United States, lives have been lost from foreign vessels stranded on our coasts because of a misunderstanding of our methods; and it is believed that the experience of other countries in this regard is similar to our own.

The destruction, or at least the frequent and accurate reporting, of dangerous derelicts, is also a matter of the highest importance; and it is obvious that this work can be thoroughly done only by means of the active co-operation of the principal maritime nations.

Closely connected with the subject of reporting derelicts is that of conveying warning of storms and of giving information of recently dis-

covered dangers to navigation, and changes in lights, buoys, and other day or night marks—which probably can be best undertaken by the adoption of some carefully considered international system.

The alacrity with which the principal maritime states have responded, by concurrent legislation to the ascertained requirements of modern developments of commercial navigation, whether on the high seas or in their several jurisdictional waters open to foreign shipping, and their readiness to consider, and when feasible to adopt, practical suggestions in the direction of uniformity and certaintyof conveying intelligence at sea and for the benefit of sea-going vessels, whenever such have been proposed, leads the Government of the United States to anticipate that they will be now no less prompt and unanimous in agreeing to confer together for their mutual advantage, taking into consideration whatever measures may tend to secure additional safeguards to maritime intercourse.

By direction, therefore, of the President of the United States, you will tender to the Government to which you are accredited a cordial invitation to be represented by as many delegates as may seem to it convenient, at an international conference to meet in the City of Washington, on Wednesday, the 17th day of April, 1889, the purposes of such conference being to revise and amend the rules, regulations, and practice concerning vessels at sea, and navigation generally, and the "International Code of Flag and Night Signals; to adopt a uniform system of marine signals, or other means of plainly indicating the direction in which vessels are moving in fog, mist, falling snow, and thick weather, and at night; to compare and discuss the various systems employed for the saving of life and property from shipwreck, for reporting, marking, and removing dangerous wrecks or obstructions to navigation, for designating vessels, for conveying to mariners and persons interested in shipping, warnings of approaching storms, of dangers to navigation, of changes in lights, buoys, and other day and night marks, and other important information; and to formulate and submit for ratification to the governments of all maritime nations proper international regulations for the prevention of collisions and other avoidable marine disasters.

It will be understood by all states taking part in this conference that no questions relating to the regulation of trade and commerce are within the scope of the discussion, and that in the disposition of any questions which may be presented to the conference, no state shall be entitled to more than one vote, whatever may be the number of delegates representing it.

You will make this invitation known to the ——— Government by reading this note to the minister for foreign affairs, and, if desired, you will leave a copy with him. Your own discretion will suggest to you the most effective manner of making known the great interest taken by the President in the benevolent purposes of the proposed conference, and his desire and confident expectation that, in the universal interest of sea-faring humanity, the Government of ——— will receive and respond to our invitation in the same spirit in which it is extended.

I am, sir, your obedient servant,

T. F. BAYARD.

[Inclosure.]

[PUBLIC—No. 167.]

AN ACT providing for an international marine conference to secure greater safety for life and property at sea.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he hereby is, authorized and requested to invite the government of each maritime nation to send delegates to a marine conference that shall assemble at such time and place as he may designate, and to appoint seven delegates, two of whom shall be officers of the United States Navy and one an official of the Life-Saving Service, two masters from the merchant marine (one from the sailing marine and one from the steam marine), and two citizens familiar with shipping and admiralty practice to represent the United States at said marine conference, and to fill vacancies in their number.

SEC. 2. That it shall be the object of said marine conference to revise and amend the rules, regulations, and practice concerning vessels at sea, and navigation generally and the "International Code of Flag and Night Signals;" to adopt a uniform system of marine signals, or other means of plainly indicating the direction in which vessels are moving in fog, mist, falling snow, and thick weather, and at night; to compare and discuss the various systems employed for the saving of life and property from shipwreck, for reporting, marking, and removing dangerous wrecks or obstruction to navigation, for designating vessels, for conveying to mariners and persons interested in shipping warnings of approaching storms, of dangers to navigation, of changes in lights, buoys, and other day and night marks, and other important information; and to formulate and submit for ratification to the governments of all maritime nations proper international regulations for the prevention of collisions and other avoidable marine disasters.

SEC. 3. That the sum of twenty thousand dollars, or so much thereof as shall be necessary, is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, for the necessary expenses of said marine conference, including the pay and allowances of the representatives of the United States therein, which shall be at the rate of five thousand dollars per annum, and actual necessary expenses, for such delegates as are not salaried officers of the United States, and the latter shall be allowed their actual necessary expenses. The Secretary of the Navy is hereby authorized to provide the conference with such facilities as may be deemed necessary. The powers and authority conferred by this act upon the persons appointed by the President by force thereof, shall terminate on the first day of January, anno Domini eighteen hundred and ninety, or sooner, at the discretion of the President.

SEC. 4. That it shall be the duty of the Secretary of State to transmit to Congress a detailed statement of the expenditures which may have been incurred under the provisions of this act.

Approved July 9, 1888.

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## No. 1132.

*To the diplomatic and consular officers of the United States.*

[Circular.]

DEPARTMENT OF STATE,
*Washington, August* 20, 1888.

GENTLEMEN: I transmit herewith copies of a new edition (July, 1888) of the forms of application for passports and of the general instructions in regard thereto, which are to be used, in accordance with the standing instructions of the Department, in the place of those heretofore transmitted.

I am, gentlemen, your obedient servant,

T. F. BAYARD.

[Inclosure 1.]

Edition of July, 1888.—Form for native citizen.]

No. ——.] *United States of America.* [Issued ——.

STATE OF ——,
*County of* ——, *ss:*

I, —— ——, a native and loyal citizen of the United States, do hereby apply to the Department of State at Washington for a passport for myself and wife, and my minor children as follows: —— ——, born at ——, on the —— day of ——, 18—, and —— ——.

In support of the above application, I do solemnly swear that I was born at ——, in the State of ——, on or about the —— day of ——, 18—; that my father is a —— citizen of the United States; that I am domiciled in the United States, my permanent residence being at ——, in the State of ——, where I follow the occupation of ——; that I am about to go abroad temporarily; and that I intend to return to the United States —— with the purpose of residing and performing the duties of citizenship therein.

*Oath of allegiance.*—Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion.

So help me God.

—— ——.

Sworn to before me this —— day of ——, 18—.

——,
*Notary Public.*

*Description of applicant.*—Age, —— years; stature, —— feet —— inches, English; forehead, ——; eyes, ——; nose, ——; mouth, ——; chin, ——; hair, ——; complexion, ——; face, ——.

*Identification.*— —— —— 18—. I hereby certify that I know the above-named —— —— personally, and I know him to be a native-born citizen of the United States, and that the facts stated in his affidavit are true to the best of my knowledge and belief.

——,
[Address of witness.] —— ——.

Applicant desires passport sent to following address:

——,
—— ——.

[Inclosure 2.]

[Edition of July, 1888.—Form for naturalized citizen.]

No. ——.] *United States of America.* [Issued ——.

STATE OF ——,
*County of* ——, *ss:*

I, —— ——, a naturalized and loyal citizen of the United States, do hereby apply to the Department of State at Washington for a passport for myself and wife, and my minor children, as follows: —— ——, born at ——, on the —— day of ——, 18—, and ——.

In support of the above application I do solemnly swear that I was born at ——, in ——, on or about the —— day of ——, 18—; that I emigrated to the United States, sailing on board the —— from ——, on or about the —— day of ——, 18—; that I resided —— years uninterruptedly in the United States, from —— to ——, at ——; that I was naturalized as a citizen of the United States, before the —— court of ——, at ——, on the —— day of ——, 18—, as shown by the accompanying certificate of naturalization; that I am the identical person described in said certificate; that I am domiciled in the United States, my permanent residence being at ——, in the State of ——, where I follow the occupation of ——; that I am about to go aboad temporarily, and that I intend to return to the United States ——, with the purpose of residing and performing the duties of citizenship therein.

*Oath of allegiance.*—Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same, and that I take this obligation freely, without any mental reservation or purpose of evasion.

So help me God.

——— ———.

Sworn to before me this —— day of ———, 18—.

——— ———,
*Notary Public.*

*Description of applicant.*—Age, —— years; stature, —— feet —— inches, English; forehead, ——; eyes, ——; nose, ——; mouth, ——; chin, ——; hair, ——; complexion, ——; face, ——.

*Identification.*— ——— ———, 18—, I hereby certify that I know the above-named ——— ———, personally, and know him to be the identical person referred to in the within-described certificate of naturalization, and that the facts stated in his affidavit are true to the best of my knowledge and belief.

——— ———,
[Address of witness.] ——— ———.

Applicant desires passport to be sent to following address:

——— ———,
——— ———.

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[Inclosure 3.]

*General instructions in regard to passports*—1888.

DEPARTMENT OF STATE,
*Washington, D. C.*

Citizens of the United States visiting foreign countries are liable to serious inconvenience if unprovided with authentic proof of their national character. The best safeguard is a passport from this Department, certifying the bearer to be a citizen of the United States. Passports are issued only to citizens of the United States upon application, supported by proof of citizenship. Citizenship is acquired by nativity, by naturalization, and by annexation of territory. An alien woman who marries a citizen of the United States thereby becomes a citizen. Minor children resident in the United States become citizens by the naturalization of their father.

When the applicant is a native citizen of the United States he must transmit his own affidavit of this fact, stating his age and place of birth, with the certificate of one other citizen of the United States to whom he is personally known, stating that the declaration made by the applicant is true. The affidavit must be attested by a notary public, under his signature and seal of office. When there is no notary in the place the affidavit may be made before a justice of the peace, or other officer authorized to administer oaths; but if he has no seal, his official act must be authenticated by certificate of a court of record. A person born abroad, who claims that his father was a native citizen of the United States, must state in his affidavit that his father was born in the United States, has resided therein, and was a citizen of the same at the time of the applicant's birth. This affidavit must be supported by that of one other citizen acquainted with the facts.

If the applicant be a naturalized citizen, his certificate of naturalization must be transmitted for inspection (it will be returned with the passport), and he must state in his affidavit that he is the identical person described in the certificate presented. Passports can not be issued to aliens who have only declared their intention to become citizens. Military service does not of itself confer citizenship. A person of alien birth who has been honorably discharged from military service in the United States, but who has not been naturalized, should not transmit his discharge paper in application for a passport, but should apply to the proper court for admission to citizenship, and transmit a certified copy of the record of such admission. In issuing passports to naturalized citizens the Department will be guided by the naturalization certificate; and the signature to the application and oath of allegiance should conform in orthography to the applicant's name as written in the naturalization paper.

Every applicant is required to state his occupation and the place of his permanent legal residence, and to declare that he goes abroad for temporary sojourn and intends to return to the United States with the purpose of residing and performing the duties of citizenship therein.

The wife or widow of a naturalized citizen must transmit the naturalization certificate of the husband, stating in her affidavit that she is the wife or widow of the person described therein. The children of a naturalized citizen, claiming citizenship

through the father, must transmit the certificate of naturalization of the father, stating in their affidavits that they are children of the person described therein, and were minors at the time of such naturalization.

The oath of allegiance to the United States will be required in all cases.

The application should be accompanied by a description of the person, stating the following particulars, viz:

Age, —— years; stature, —— feet —— inches (English measure); forehead, ——; eyes, ——; nose, ——; mouth, ——; chin, ——; hair, ——; complexion, ——; face, ——.

If the applicant is to be accompanied by his wife, minor children, or servants, it will be sufficient to state the names and ages of such persons and their relationship to the applicant, when a single passport for the whole will suffice. For any other person in the party a separate passport will be required. A woman's passport may include her minor children and servants.

By act of Congress approved March 23, 1888, a fee of $1 is required to be collected for every citizen's passport. That amount in currency, postal money-order, or postal note should accompany each application. Orders should be payable to the disbursing clerk of the Department of State.

A passport is good for two years from its date and no longer. A new one may be obtained by stating the date and number of the old one, paying the fee of $1 and furnishing satisfactory evidence that the applicant is at the time within the United States. The oath of allegiance must also be transmitted when the former passport was issued prior to 1861.

Citizens of the United States desiring to obtain passports while in a foreign country must apply to the chief diplomatic representative of the United States in that country, or in the absence of a diplomatic representative then to the consul-general, if there be one, or, in the absence of both the officers last named, to a consul. Passports can not be lawfully issued by State authorities or by judicial or municipal functionaries of the United States. (Revised Statutes, section 4075.) To persons wishing to obtain passports for themselves blank forms of application will be furnished by this Department on request, stating whether the applicant be a native or a naturalized citizen. Forms are not furnished, except as samples, to those who make a business of procuring passports.

Communications should be addressed to the Department of State, indorsed "Passport Division," and each communication should give the post-office address of the person to whom the answer is to be directed. Professional titles will not be inserted in passports.

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## No. 1133.

*To the consular officers of the United States having extraterritorial jurisdiction.*

[Circular.]

DEPARTMENT OF STATE,
*Washington, August* 25, 1888.

GENTLEMEN: The Secretary of the Navy on the 13th instant called the attention of this Department to the fact that the circular of August 19, 1887, in relation to the status of naval seamen after conviction in consular courts of offenses subjecting them to imprisonment, contravenes, by reason of the generality of its terms, the regulation of November 2, 1875, providing for the concurrent jurisdiction of the naval and consular authorities as to minor offenses of naval seamen.

The circular of August 19, 1887, is therefore amended so as to read as follows:

A seaman of the Navy who is convicted in a consular court of a felonious offense (as distinguished from cases of overstaying leave, disorderly conduct, drunkenness, and other comparatively minor offenses, of which, under the regulation of November 2, 1875, the naval and consular authorities have concurrent jurisdiction) ceases, from the date of such conviction, to be in the naval service of the United States, and should be dealt with thenceforth as a private individual. Therefore you should promptly notify the commanding officer of the vessel on which the man served, or the

commander in charge of the squadron, when any such conviction occurs, and he in turn will communicate to you the action subsequently taken by him under orders of the Navy Department.

I am, gentlemen, your obedient servant,

G. L. RIVES,
*Assistant Secretary.*

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No. 1134.

*By the President of the United States of America.*

A PROCLAMATION.

Whereas satisfactory proof has been given to me that no light-house and light dues, tonnage dues, beacon and buoy dues, or other equivalent taxes of any kind, are imposed upon vessels of the United States in the ports of the island of Guadeloupe, one of the French West India Islands:

Now, therefore, I, Grover Cleveland, President of the United States of America, by virtue of the authority vested in me by section eleven of the act of Congress entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," approved June nineteenth, one thousand eight hundred and eighty-six, do hereby declare and proclaim that from and after the date of this my proclamation shall be suspended the collection of the whole of the tonnage duty which is imposed by said section of said act upon vessels entered in the ports of the United States from any of the ports of the island of Guadeloupe.

*Provided*, That there shall be excluded from the benefits of the suspension hereby declared and proclaimed the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues, or duties imposed on the vessels of such foreign country, or their cargoes, or of the fees, dues, or duties imposed on the vessels of the country in which are the ports mentioned in this proclamation, or the cargoes of such vessels.

And the suspension hereby declared and proclaimed shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and their cargoes, shall be continued in the said ports of the island of Guadeloupe and no longer.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this sixteenth day of April, in the year of our Lord one thousand eight hundred and eighty-eight, and of the Independence of the United States the one hundred and twelfth.

GROVER CLEVELAND.

[SEAL.]
By the President:

T. F. BAYARD,
*Secretary of State.*

# SUPPLEMENT A.

## GREAT BRITAIN.

*Papers relating to the case of Lord Sackville*

*LIST OF PAPERS.*

A. Mr. Murchison to Lord Sackville. September 4, 1888.
B. Lord Sackville to Mr. Murchison. September 13, 1888.
1. Mr. Bayard to Mr. Phelps. Telegram. October 25, 1888.
2. Mr. Phelps to Mr. Bayard. Telegram. October 26, 1888.
3. Mr. Bayard to Mr. Phelps. Telegram. October 26, 1888.
4. Mr. Phelps to Mr. Bayard. Telegram. October 28, 1888.
5. Report of the Secretary of State to the President. October 29, 1888.
6. Mr. Bayard to Lord Sackville. October 30, 1888.
7. Mr. Bayard to Mr. Phelps. Telegram. October 30, 1888
8. Lord Sackville to Mr. Bayard. October 30, 1888.
9. Mr. Bayard to Mr. Phelps. No. 990. October 31, 1888.
10. Mr. Phelps to Mr. Bayard. No. 842. November 2, 1888.
11. Mr. Phelps to Mr. Bayard. No. 845. November 7, 1888.
12. Mr. Bayard to Mr. Phelps. November 20, 1888.
13. Mr. Phelps to Mr. Bayard. No. 858. December 1, 1888.
14. Mr. Phelps to Mr. Bayard. No. 861. December 5, 1888.
15. Mr. Phelps to Mr. Bayard. No. 874. December 29, 1888.
16. Mr. Phelps to Mr. Bayard. No. 893. January 12, 1889.
17. Mr. Phelps to Mr. Bayard. No. 901. January 16, 1889.
18. Mr. Bayard to Mr. Phelps. No. 1054. January 30, 1889.
Appendix: British White Book, United States, No. 4 (1888).

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### A.

*Mr. Charles F. Murchison to Lord Sackville.*

POMONA, CAL., *September* 4, 1888.

SIR: The gravity of the political situation here and the duties of those voters who are of English birth, but still consider England the motherland, constitute the apology I hereby offer for intruding for information.

Mr. Cleveland's message to Congress on the fishery question justly excites our alarm and compels us to seek further knowledge before finally casting our votes for him as we had intended to do. Many English citizens have for years refrained from being naturalized, as they thought no good would accrue from the act, but Mr. Cleveland's administration has been so favorable and friendly toward England, so kind in not enforcing the retaliatory act passed by Congress, so sound on the free-trade question, and so hostile to the dynamite school of Ireland, that by the hundreds—yes, by the thousands—they have become naturalized for the express purpose of helping to elect him over again. The one above all of American politicians they consider their own and their country's best friend.

I am one of these unfortunates, with a right to vote for President in

November. I am unable to understand for whom I shall cast my ballot, when but one month ago I was sure Mr. Cleveland was the man. If Cleveland was pursuing a new policy toward Canada temporarily only and for the sake of obtaining popularity and continuation of his office four years more, but intends to cease his policy when his re-election is secured in November and again favor England's interest, then I should have no further doubts, but go forward and vote for him.

I know of no one better able to direct me, sir, and I most respectfully ask your advice in the matter. I will further add that the two men, Mr. Cleveland and Mr. Harrison, are very evenly matched, and a few votes may elect either one. Mr. Harrison is a high-tariff man, a believer on the American side of all questions, and undoubtedly an enemy to British interests generally. This State is equally divided between the parties, and a mere handful of our naturalized countrymen can turn it either way. When it is remembered that a small State (Colorado) defeated Mr. Tilden in 1876 and elected Hayes, the Republican, the importance of California is at once apparent to all.

As you are at the fountain head of knowledge on the question, and know whether Mr. Cleveland's present policy is temporary only, and whether he will, as soon as he secures another term of four years in the Presidency, suspend it for one of friendship and free trade, I apply to you privately and confidentially for information, which shall in turn be treated as entirely secret. Such information would put me at rest myself, and if favorable to Mr. Cleveland, enable me, on my own responsibility, to assure many of our countrymen that they would do England a service by voting for Cleveland and against the Republican system of tariff. As I before observed, we know not what to do, but look for more light on a mysterious subject, which the sooner it comes will better serve true Englishmen in casting their votes.

Yours, very respectfully,

CHARLES F. MURCHISON.

To the BRITISH MINISTER,
*Washington, D. C.*

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B.

*Lord Sackville to Mr. Charles F. Murchison.*

[Private.]

SIR: I am in receipt of your letter of the 4th instant, and beg to say that I fully appreciate the difficulty in which you find yourself in casting your vote. You are probably aware that any political party which openly favored the mother country at the present moment would lose popularity, and that the party in power is fully aware of this fact. That party, however, is, I believe, still desirous of maintaining friendly relations with Great Britain, and is still as desirous of settling all questions with Canada which have been unfortunately re-opened since the rejection of the treaty by the Republican majority in the Senate and by the President's message, to which you allude. Allowance must, therefore, be made for the political situation as regards the Presidential election thus created. It is, however, plainly impossible to predict the course which President Cleveland may pursue in the matter of retaliation should he be elected; but there is every reason to believe that,

while upholding the position he has taken, he will manifest a spirit of conciliation in dealing with the question involved in his message. I inclose an article from the New York Times, of August 22, and remain,

Yours, faithfully,

L. S. SACKVILLE WEST.

BEVERLY, MASS., *September* 13, 1888.

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[Inclosure in B.—Extract from the New York Times of August 22, 1888.]

There is this further consideration in favor of supporting the administration on this issue. It will leave the question still open for friendly means of settlement of some kind, while a support of the Senate's position would close all avenues of future negotiations and bring upon the country the disastrous consequences of retaliation, hostility, and possible war. It would put an end to all prospect of improving the commercial relations of the United States and Canada. This is one of the questions which the people should keep in mind in casting their votes next November.

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No. 1.

*Mr. Bayard to Mr. Phelps.*

[Telegram.]

DEPARTMENT OF STATE,
*Washington, October* 25, 1888.

Mr. Bayard states that the Murchison correspondence has been shown to him by Lord Sackville, who declared his reply to have been strictly private and not intended for publication. Mr. Bayard thereupon strongly expressed his amazement and condemnation of the minister's act. Subsequently to the appearance of the Murchison correspondence, in interviews with newspaper reporters in defense of his letter, Lord Sackville is reported to have gravely reflected upon the motives of the President and the Senate as regards their action touching pending questions relative to Canada. The Government of the United States can not be indifferent to any interference in domestic issues by foreign representatives. Mr. Phelps will accordingly invite Lord Salisbury's attention to the occurrence, and express the confident reliance of this Government upon the action of Her Majesty's Government in the premises.

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No. 2.

*Mr. Phelps to Mr. Bayard.*

[Telegram.]

LEGATION OF THE UNITED STATES,
*London, October* 26, 1888. (Received October 26.)

Mr. Phelps states that Lord Salisbury will be absent for several days, but that he shall spend the 28th instant with him in the country, and inquires whether it is certain that Lord Sackville reflected upon the President and the Senate, and whether he may not have been incorrectly reported.

No. 3.

*Mr. Bayard to Mr. Phelps.*

[Telegram.]

DEPARTMENT OF STATE,
*Washington, October* 26, 1888.

Mr. Bayard states that Lord Sackville, in his correspondence and in frequent interviews intended to be published, has impugned the motives of the President and the Senate in regard to Canadian questions, and that his usefulness in this country is at an end. A strong public sentiment has been aroused, and Lord Salisbury should be permitted as speedily as possible to understand the necessity of immediate action.

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No. 4.

*Mr. Phelps to Mr. Bayard.*

[Telegram.]

LEGATION OF THE UNITED STATES,
*London, October* 28, 1888. (Received October 28.)

Mr. Phelps telegraphs that he has communicated his instructions to Lord Salisbury, who declines to act until in receipt of the precise language of Lord Sackville and his explanation. Lord Salisbury does not regard the minister's letter alone as sufficient to warrant his recall, thus ending his diplomatic career, which would not necessarily be the case, if he were dismissed by the Government of the United States, for which course there are precedents.

Mr. Phelps states he is convinced that there will be long delays, with no decisive result, if dependence is placed on the movement of the British Government and advises that if the case is thought by you to require effective action, it be taken upon the intimation of Lord Salisbury.

He says that this view is sustained by the tenor of the London press. All requirements of comity have been satisfied by Mr. Phelps's application to the British Government, and formal explanations of the action of the United States may follow.

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No. 5.

*Report by the Secretary of State to the President.*

To the PRESIDENT:

The undersigned has the honor to submit for your consideration the following statement, with a view to receive your direction thereon:

On the 4th of September last a letter purporting to be written by one Charles F. Murchison, dated at Pomona, Cal., was sent from that place to the British minister at this capital, in which the writer solicited an expression of his views in regard to certain unsettled diplomatic questions between the United States and Great Britain, stating at the

same time that such an expression was sought by him for the purpose of determining his vote at the approaching Presidential election. He stated that he was a naturalized citizen of the United States, of English birth, but that he still considered England the motherland, and that this fact led him to seek advice from the British representative in this country. He further stated that the information he sought was not for himself alone, but to enable him to give certain assurances to many other persons in the same situation as himself, for the purpose of influencing and determining their political action as citizens of the United States, of English birth, but who still regarded their original obligation of allegiance as paramount. The letter also contained gross reflections upon the conduct of this Government in respect to questions now in controversy and unsettled between the United States and Great Britain, and both directly and indirectly imputed insincerity in such conduct.

To this letter the British minister at once replied from Beverly, Mass., under date of the 13th of September last. In his reply he stated that—

> any political party which openly favored the mother country at the present moment would lose popularity, and that the party in power is fully aware of that fact;

and that in respect to the—

> questions with Canada which have been unfortunately re-opened since the rejection of the (fisheries) treaty by the Republican majority in the Senate and by the President's message, to which you allude, all allowances must therefore be made for the political situation as regards the Presidental election.

The minister thus gave his assent and sanction to the aspersions and imputations above referred to.

Thus under his correspondent's assurance of secrecy, in which the minister concurred by marking his answer "private," he undertook to advise a citizen of the United States how to exercise the franchise of suffrage in an election close at hand for the Presidency and Vice-Presidency of the United States, and through him, as the letter suggested, to influence the votes of many others.

Upon this correspondence being made public, the minister received the representatives of the public press, and in frequent interviews with them, intended for publication, added to the impugnments which he had already made of the good faith of this Government in its public action and international dealings. Although ample time and opportunity have been offered him for the disavowal, modification, or correction of his statements, to some of which his attention was called personally by the undersigned, yet no such disavowal or modification has been made by him through the channels in which his statements first found publicity.

The question is thus presented, whether it is compatible with the dignity, security, and independent sovereignty of the United States to permit the representative of a foreign Government in this country not only to receive and answer without disapproval and confirm by his repetition aspersions upon its political action, but also to interfere in its domestic affairs by advising persons formerly his countrymen as to their political course as citizens of the United States.

As between this country and Great Britain there can be no controversy as to the complete severance of the ties of original allegiance by naturalization. Disputes on this point were finally put at rest by the treaty of naturalization concluded between the two countries on the 13th of May, 1870. Therefore it will not be contended, nor was such a contention ever admitted by us, that citizens of the United States of Brit-

ish origin are subject to any claim of the country of their original allegiance.

The undersigned also has the honor to call attention to the provisions of section 5335 of the Revised Statutes of the United States, by which severe penalties are visited upon the citizens of the United States who, without the authority or permission of this Government, "commences or carries on any verbal or written correspondence or intercourse with any foreign Government, or any officer or agent thereof," either with an intent to influence the action of such Government or its agents, in relation to any disputes or controversies with the United States, or with an intent "to defeat the measures of the Government of the United States." Those penalties are made equally applicable to every citizen of the United States, not duly authorized, who "counsels, advises, or assists in any such correspondence" with similar unlawful intent.

The undersigned respectfully advises that the attention of the Attorney-General of the United States be directed to these enactments in order that an investigation may be made with a view to ascertain whether they have not been violated in the present case by the correspondent of the British minister.

By your direction, the attention of the British Government has in a spirit of comity been called to the conduct of its minister, as above described, but without result. It therefore becomes necessary for this Government to consider whether, as the guardian of its own self-respect and of the integrity of its institutions, it will permit further intercourse to be held through the present British minister at this capital. It is to be observed that precedents are not wanting as to the question under consideration. It is a settled rule, essential to the maintenance of international intercourse, that a diplomatic representative must be *persona grata* to the Government to which he is accredited. If by his conduct he renders himself *persona non grata*, an announcement of the fact may be made to his Government.

In the present case all the requirements of comity have been fulfilled, the facts having been duly communicated to Her Majesty's Government with an expression of the opinion of this Government in regard thereto.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,
*Washington, October* 29, 1888.

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No. 6.

*Mr. Bayard to Lord Sackville.*

DEPARTMENT OF STATE,
*Washington, October* 30, 1888.

MY LORD: The President of the United States has instructed me to inform you that for good and sufficient causes, which are known to yourself, and have been duly brought to the knowledge of your Government, he has with great regret become convinced that it would be incompatible with the best interests and detrimental to the good relations of both Governments that you should any longer hold your present official position in the United States, and that accordingly the Government of Her Britannic Majesty will without delay be informed of this

determination, in order that another channel may be established for the transmission of such communications as may be found desirable by the two Governments in the transaction of their business.

Whenever it is your pleasure to depart from the United States, I am instructed to furnish you with the usual facilities, and with that view I now beg leave to inclose a passport in the customary form.

I avail, etc.

T. F. BAYARD.

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No. 7.

*Mr. Bayard to Mr. Phelps.*

[Telegram.]

DEPARTMENT OF STATE,
*Washington, October* 30, 1888.

PHELPS, *Minister, London:*

By direction of the President, I have to-day informed Lord Sackville, the British minister at this capital, that for causes heretofore made known through you to Her Majesty's Government, pursuant to my dispatch of the 25th instant, his continuance in his present official position in the United States is no longer acceptable to this Government, and would consequently be detrimental to the relations between the two countries.

It becomes, therefore, necessary that another channel of intercourse between the two Governments should be opened.

A passport, to facilitate his withdrawal, has been issued to Lord Sackville.

You will inform Her Majesty's Government of this determination.

BAYARD.

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No. 8.

*Lord Sackville to Mr. Bayard.*

WASHINGTON, *October* 30, 1888. (Received October 31.)

SIR: I have the honor to acknowledge the receipt of your note of this day's date, informing me that the President of the United States has become convinced that it would be incompatible with the best interests and detrimental to the good relations of both Governments that I should any longer hold my present official position in the United States, and transmitting my passports.

I have the honor to be, etc.,

SACKVILLE.

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No. 9.

*Mr. Bayard to Mr. Phelps.*

No. 990.] DEPARTMENT OF STATE,
*Washington, October* 31, 1888.

SIR: Referring to my personal communication of the 26th instant, in relation to the correspondence of Lord Sackville with a person signing

the name of Charles F. Murchison, I now transmit copies of the text of the cipher telegrams* sent you since that date, dated respectively the 25th and 26th instant.

Although in that letter of the 26th I inclosed copies of the Sackville-Murchison correspondence, and also printed slips of the report of the published statements of Lord Sackville made to the correspondents of certain newspapers, yet, for the purpose of unbroken statement of this most regrettable incident and the results it has brought about, I now transmit other copies of the letters† referred to, and of the interview of Lord Sackville with the reporter of the New York Tribune, as it appeared in that newspaper in its issue of the 24th instant.

An examination of the letter of Murchison, dated Pomona, Cal., September 4, 1888, and of the reply thereto of Lord Sackville, dated Beverly, Mass., September 13, 1888, discloses the facts that a naturalized citizen of the United States, of English birth, made therein full recital of the supposed issues of the political canvass now pending in the United States, avowing British interests to be paramount with him, and seeking to obtain the advice of the representative of Great Britain in the United States as to how the writer should cast his vote in the approaching Presidential election. The letter contains, in varied form, repeated avowals of the writer's British sympathies, and the minister is asked to inform him which candidate will most favor English interests, because it would put the writer at rest and enable him to assure many of his countrymen that they would do England a service by voting for a certain candidate if the opinion of the British minister should be favorable thereto.

To this letter, as you will perceive, Lord Sackville readily replied and gave the advice as asked for, combining therewith, by innuendo at least, unfavorable reflections upon the Senate and the President in relation to important and unsettled international questions.

The date and tone of Lord Sackville's reply indicate not the slightest hesitancy, nor suggests rebuke to a correspondent exhibiting such gross perfidy toward the country whose citizenship he had assumed, nor denounces the disrespect to himself personally of applying to him—the official of a foreign government, admitted to the especially privileged position of envoy to the United States—for secret advice whereby to influence the most important function of our citizenship.

Lord Sackville overlooked or disregarded all this, and fortified his advisory letter by inclosing an extract from an editorial article in a New York newspaper expressing with vigor and clearness the views he was disposed to favor.

Such an answer to such a letter can only be characterized as a gross breach of diplomatic privilege and decorum—an unjustifiable abuse of his lordship's position here as the accredited envoy of a friendly power. His conduct was wholly inconsistent with prudent, delicate, and scrupulous abstention from intermeddling with the domestic affairs of the country by whom he had been so kindly and hospitably received. He dangerously invaded the exclusive sovereignty of this Government over its own soil, its own citizens, and its affairs of the deepest moment.

Furthermore, on the 23d of October, Lord Sackville held an interview with a reporter of the New York Tribune—which was published in that journal on the 24th—in which he distinctly impugned the sincerity of the President and the Senate, and, in phrases of disrespect and derision, aspersed the integrity of both. His lordship has since signified no dis-

* Printed *supra*, Nos. 1, 3, and 7. † Printed *supra*, A and B.

position to make public or official modification or retraction of his statements.

You will also observe that the letter of his lordship's correspondent promised to keep the information sought for entirely secret, and in this Lord Sackville co-operated by making his reply "private," thereby participating in an avowed underhand endeavor to influence not only a single American citizen, but many others in the exercise of the highest and most sacred civic franchise—that of voting in the election of President and Vice-President of the United States.

Conduct so dangerous to the integrity and safety of our political institutions and so conspicuously at war with international duty and good faith could not, when discovered, be suffered to be passed by or to become a precedent in this country, and therefore, as soon as I had read the letter of Murchison, together with Lord Sackville's reply, you were directed, by order of the President on the 25th instant, to lay the facts before Her Majesty's Government, and on the following day I renewed and emphasized my statements in terms which clearly intimated to Her Majesty's Government the impossibility of Lord Sackville continuing to represent his Government in this country. It was the hope and desire of the President that Her Majesty's Government would immediately recognize the propriety of taking steps to relieve the situation thus created by the action of Her Majesty's minister, which has given rise to strong feeling and exceeding regret in the United States. But, after thus having fulfilled the requirements of comity, and having awaited action on the part of the Government of Great Britain, and having received from you information that delay attendant upon an extended discussion of the facts—which was deemed by the President to be wholly unnecessary—would in all likelihood ensue, the President felt constrained by the duty of his office, under the circumstances I have detailed, to exercise the high discretion inherent in every sovereign state of terminating the official residence in this country of a foreign minister who was no longer acceptable.

I inclose for your further information a copy of a report* made by me on this subject to the President, and with it a copy of the letter addressed to Lord Sackville on the 30th instant,† terminating his official relations to this Government, and his lordship's acknowledgment thereof.‡

This Government is ready to receive any communication in relation to the affairs and interests of Her Majesty's Government through such other channel as may be established.

I am, sir, your obedient servant,

T. F. BAYARD.

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[Inclosure in No. 990.—From the New York Daily Tribune, Wednesday, October 24, 1888.]

*Lord Sackville doesn't care—The British Minister acknowledges that he wrote the Los Angeles letter—extremely friendly towards Mr. Cleveland's administration—Not in the least afraid that his recall will be demanded.*

WASHINGTON, *October* 23, 1888.

Lord Sackville, the British minister, was seen by the Tribune correspondent to-day in reference to the letter printed in yesterday's Tribune in a dispatch from Los Angeles, alleged to have been written by him to an American citizen of English birth, who had asked the minister's advice as to how he should vote at the coming election. * * * When asked if the Los Angeles letter was genuine, he replied that it was.

"Was the gentleman who wrote to you a friend?" asked the Tribune correspondent.

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* Printed *supra*, No. 5. † Printed *supra*, No. 6. ‡ Printed *supra*, No. 8.

"Oh, no," was the reply. "I never saw or heard of him until I received his letter. He wrote asking my advice, as other people do, and I answered him as you have seen."

"Did you expect that your letter would find its way into print?"

"No, indeed; especially as I marked it private. But now that it is published, I don't care."

"What do you think of the suggestion in the New York Sun to-day that if the letter is genuine Secretary Bayard should immediately send you your passports?"

Lord Sackville had not read the article referred to, and when it was handed to him he perused it carefully, with a smile upon his face, and then said:

"I am not alarmed at that threat. There has been so much said about me in the past that I have become indifferent to such comment. The man wrote to me asking my advice upon a subject in which he was interested, as he had perfect right to do. I answered him, giving him my views upon the matter, as I had a right to do. That's all there is of it."

"Then you don't feel at all uneasy over the demand for your recall?"

"Oh, dear, no. I have done nothing that is at all prejudicial to my position or that is in violation of any international custom or courtesy."

"Has anything been done in regard to the fisheries question since the rejection of the treaty by the Senate?"

"No. Since that time matters have been at a stand-still on both sides. Of course I understand that both the action of the Senate and the President's letter of retaliation were for political effect. In a general election it is but natural that every point should be seized upon by both parties which would have an effect upon the voters. It is not at all likely that any trouble will result over this fisheries matter. It will be amicably adjusted in the end."

* * * * * * *

"Well," said the correspondent, as the interview was brought to a close, "then there is nothing more that you wish to say, either in reference to the Los Angeles letter or the demand for your recall?"

"No," was the reply; "I wrote what I believed in the former and I shall give myself no uneasiness about the latter."

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## No. 10.

### *Mr. Phelps to Mr. Bayard.*

No. 842.] LEGATION OF THE UNITED STATES,
*London, November* 2, 1888. (Received November 13, 1888.)

SIR: Referring to your instructions* by cable message of October 26, 27, and 30, and to my several replies† thereto, I have now the honor to acquaint you that on Saturday, October 27, I had an interview with Lord Salisbury, Her Majesty's secretary of state for foreign affairs, in which I laid before him the purport of your instructions and expressed to him the desire of the United States Government that Lord Sackville, the British minister at Washington, should be recalled. I referred to the letter addressed by Lord Sackville to Murchison and published in the American newspapers; and also informed Lord Salisbury that I was instructed by you that Lord Sackville had in correspondence and interviews intended for publication impugned and gravely reflected upon the motives of the President and Senate in their action touching the subject of the Canadian fisheries; that public sentiment in the United States was strongly aroused thereby; and that in the opinion of the United States Government Lord Sackville's usefulness as minister at Washington was ended.

Lord Salisbury in reply expressed the opinion that the Murchison letter having been intended to be private, did not of itself afford ground for any action by Her Majesty's Government. He further remarked that

* Printed *supra*, Nos. 1, 3, and 7. † Printed *supra*, Nos. 2 and 4.

without being apprized of the language used by Lord Sackville, and giving him an opportunity for explanation or disavowal, Her Majesty's Government could not act. He observed that a recall by his own Government would be ruinous to Lord Sackville, whereas such a result would not necessarily follow if he was dismissed by the Government to which he was accredited, and that for such a course there were precedents. Further general conversation ensued not material to be repeated. I became satisfied that the British Government would take no immediate action in the premises, but would await the reception of further information and the explanation of the minister; and while no direct intimation of their probable course was given me, I was not encouraged to believe that it was likely to be decisive, and I inferred from the remark above mentioned that the British Government would prefer that action should be taken, if at all, by the Government of the United States. It is proper, however, to add that this inference was based only upon the remark above quoted, and though I believe it to be correct, was not justified by any more direct expression of Lord Salisbury.

I therefore sent you cable dispatches of October 28* and 29.

On receipt of your instruction by cable of October 30,† communicating the action of the President in respect to Lord Sackville, I addressed a note under date of October 31 to Lord Salisbury, informing him of the purport of that instruction, and addressed to you a cable dispatch of the same date.

On yesterday I received from Lord Salisbury a note in reply to mine of October 31, to which I have this morning sent an answer, and have sent you by cable the substance of both notes.

I inclose herewith copies of my cable dispatches to you of October 26,‡ 28,§ and 29, and of this date; of my notes to Lord Salisbury of October 30 and of this date, and of his note to me of November 1.

I inclose also various editorial articles on the subject in leading London newspapers that have from time to time appeared. You will observe that previous to the dismissal of Lord Sackville it was generally conceded in these newspapers that it was impossible that he should remain longer at Washington as British minister.

Since the action of the President some of them have characterized the manner in which the British minister was treated and the publicity given to it as an affront to Great Britain.

I presume you will deem it proper to furnish me with the details of the language used by Lord Sackville and the attendant circumstances desired by Lord Salisbury, and which I have promised to furnish to him when received.

I have the honor, etc.,

E. J. PHELPS.

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[Inclosure 1 in No. 842—Telegram.]

*Mr. Phelps to Mr. Bayard.*

LEGATION OF THE UNITED STATES,
*London, October* 29, 1888.

Mr. Phelps states that it is conceded by the London press that the British minister must leave. Prompt action advised.

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* Printed *supra*, No. 4.
† Printed *supra*, No. 7.
‡ Printed *supra*, No. 2.
§ Printed *supra*, No. 4.

[Inclosure 2 in No. 842.—Telegram.]

*Mr. Phelps to Mr. Bayard.*

LEGATION OF THE UNITED STATES,
*London, October* 31, 1888.

Mr. Phelps informs Mr. Bayard of the reception of his telegraphic instructions of the 30th instant, and of their communication, in substance, to Lord Salisbury.

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[Inclosure 3 in No. 842.—Telegram.]

*Mr. Phelps to Mr. Bayard.*

LEGATION OF THE UNITED STATES,
*London, November* 2, 1888.

Mr. Phelps states that on the preceding evening he received from Lord Salisbury a note in reply to his announcement of the dismissal of Lord Sackville. Lord Salisbury stated that not having been informed of the language used by the minister, he was unable to form a judgment upon the request of the United States for Lord Sackville's recall or upon his subsequent dismissal.

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[Inclosure 4 in No. 842.]

*Mr. Phelps to Lord Salisbury.*

LEGATION OF THE UNITED STATES,
*London, October* 31, 1888.

MY LORD: I have the honor to acquaint you that I received at a late hour last night instructions from the United States Government to communicate to your Lordship that, by direction of the President, the Secretary of State on yesterday informed Lord Sackville, Her Majesty's minister at Washington, that for reasons heretofore made known to your lordship his continuance in that official position was no longer acceptable, and would consequently be detrimental to the relations between the two Governments, and that a passport to facilitate his withdrawal has therefore been issued to Lord Sackville.

And I am further instructed to express the hope of the President that another representative from Her Majesty's Government may be accredited to the Government of the United States.

I have the honor to be, etc.,

E. J. PHELPS.

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[Inclosure 5 in No. 842.]

*Lord Salisbury to Mr. Phelps.*

FOREIGN OFFICE, *November* 1, 1888.

SIR: I have the honor to acknowledge your letter of yesterday's date, intimating to me that Mr. Bayard had informed Lord Sackville, Her Majesty's minister at Washington, for reasons heretofore made known to me, his continuance in that official position was no longer acceptable, and would be consequently detrimental to the relations between the two Governments, and that in consequence his passports had been sent to him.

On Saturday last, when I had the honor of an interview with you, you informed me that the Government of the United States desired the recall of Lord Sackville; and you stated that the ground for that application was not the letter to a California gentleman which has been much canvassed in the newspapers, but the language which Lord Sackville had employed to certain reporters who "interviewed" him, and which, in the judgment of your Government, imputed discreditable motives to the President and the Senate of the United States.

I asked if you could give me a copy of the speech or speeches to which exception was taken—but you had not received them; I refer to this interview on account of the intimation which, as you inform me, the Secretary of State conveyed to Lord Sack-

ville, that the reasons for which his lordship's continuance was no longer acceptable had been heretofore made known to me. Nothing has been made known to me except what you did me the honor to communicate on Saturday evening, and by that communication I was only made acquainted with the interpretation which Mr. Bayard put upon certain speeches made by Lord Sackville. What those speeches contained, or to whom they were made, were circumstances not included in your communication; and indeed were, as I gathered, not known to yourself. I have not since received any further information on these points; and therefore I am unable to form any judgment upon the considerations which dictated the request which I received from the United States Government on Saturday, or the action which they took on Tuesday.

I have the honor to be, etc.,

SALISBURY.

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[Inclosure 6 in No. 842.]

*Mr. Phelps to Lord Salisbury.*

LEGATION OF THE UNITED STATES,
*London, November* 2, 1888.

My LORD: I have had the honor to receive your note of yesterday.

My recollection of what passed between us in the conversation of Saturday last differs slightly from that of your lordship in one particular. I did not intend to be understood as saying that the letter of Lord Sackville formed no part of the reasons of the United States Government for desiring his recall; though I did say that the principal reason was the published imputation by Lord Sackville to the President and to the Senate of discreditable motives in their action touching the subject of the Canadian fisheries.

As the instructions I had received from the Secretary of State of the United States had been by cable message only, I was not then and am not now in possession of the precise language attributed to Lord Sackville nor the particular circumstances under which it was used; but only of its general purport and effect as communicated by me to your lordship in the conversation above mentioned.

I have, however, transmitted a copy of your lordship's note to the Secretary of State, and have requested to be furnished with all details of language and circumstances, and on receipt of his reply I shall lose no time in placing them before your lordship.

I have the honor to be, etc.,

E. J. PHELPS.

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[Inclosure 7 in No. 842.—Editorial from the London Times, Monday, October 29, 1888.]

It seems to be certain that the Government of the United States have taken a step which must render it impossible to continue Lord Sackville at the head of the British legation at Washington. An intimation has been conveyed, it is stated, to Her Majesty's foreign office to the effect that a good understanding between the two countries would be promoted by a change in the person of the British representative. Even if no formal communication had been made on the subject, the disturbance of public opinion in the United States would be sufficient to settle the question. An ambassador or minister accredited to a foreign Government can be only useful so long as he remains a *persona grata* to those with whom he has to transact business. It is a part of international comity to pay attention to the hints of sovereigns in this matter, and to withdraw diplomatic representatives who have the ill-luck to provoke dislike or friction at the courts they have to do with. In the United States the sovereign people claim the same right, and insist upon it without much regard for the dictates of good manners. That, however, is the affair of the Americans themselves. We have only to deal with the fact that a vehement outcry has been raised against Lord Sackville, whose indiscretion has been, unfortunately, indisputable and indefensible, and we can come to no other conclusion than that Her Majesty's Government are bound to replace him by a diplomatist whose name can not be dragged, by the utmost perversity of rancour or prejudice, into the party strife of the United States. When the fury of the Presidential contest has spent itself, which, we take it, will be at the latest about forty-eight hours after the election of to-morrow week, important negotiations must be resumed between the British and American Governments, and it would be improper to confuse and complicate them by permitting the importation into the controversy of any paltry personal question. It is for this country to do what is right and becoming in the circumstances of the case, without wasting time or temper over

the conduct of the Americans. About that conduct, indeed, there can hardly be two opinions among intelligent and fair-minded men; and, if the Americans were not at the present moment in the thick of the demoralizing quadrennial struggle for the spoils of office, it is possible that some of them would enter a protest in public against the undignified vulgarity and interested unfairness shown by both their political parties throughout the whole transaction.

Lord Sackville's indiscretion, though a few weeks old, has been brought to light just in time to create a stir which may last till the Presidential election is over. The whole business, indeed, appears to be what is styled, in vulgar parlance, a "plant," originating, we are told, in the enterprise, unincumbered by scruples, of a smart Californian reporter, who undertook to "draw" the British minister and succeeded probably beyond his utmost expectations. In reply to a letter purporting to come from a British naturalized citizen settled at Pomona, Sir Lionel Sackville-West, as he then was, wrote, at considerable length, on the 13th of September, giving his advice, marked "private," to his unknown correspondent on the question whether a well-wisher of England might vote for the Democratic ticket in spite of President Cleveland's recent message. The British minister's letter contained nothing that had not been published over and over in hundreds of newspapers, nothing that any shrewd observer living in the United States might not discern for himself. He pointed out that "any political party which openly favored the mother country at the present moment would lose popularity," and that "the party in power was fully aware of the fact;" but while declining to predict President Cleveland's course, should he be elected, in the matter of retaliation, he expressed his belief that the Democrats were "still desirous of maintaining friendly relations with Great Britain." The substance of this letter, it will be seen, was the most harmless commonplace, but it is equally obvious that it never ought to have been written by a diplomatist, who should be careful in any country, and especially in a Democratic country, to avoid even the appearance of interfering in domestic politics. The case was not made better, but worse, by Lord Sackville's belief that he was writing to a British subject who had become a naturalized American citizen. The Americans are very jealous of any assertion by foreign Governments of rights over the naturalized citizens who form so large a proportion of the population of the United States, and they have been persevering in their diplomatic efforts to put an end to the system of double allegiance. Nor is it any answer to objections to say that Lord Sackville was entitled to form his private opinions and to express them in his private correspondence. It is evident that the British minister was appealed to by the supposititious British resident at Pomona as the representative of British interests in the United States, and in that character—not as a private individual, for as such he was unknown to the querist—he must be regarded as having written his answer. This was manifestly an indiscretion. We are not prepared to censure Lord Sackville because he formed no suspicion that the letter was a sham one, intended to extract from him, as it did, some declaration favorable to the Democrats which might be used against them by their opponents. A British minister, whether at Washington or elsewhere, must be an English gentleman, and may be forgiven if he is not up to all the dirty tricks of American politicians.

But when all has been said that ought to be said of Lord Sackville's error, and when it is admitted that the fuss which has been made about it has disastrously impaired his usefulness in the United States, we may ask what is to be thought of the conduct of those who have turned an occurrence, in itself of no conceivable significance, to the basest purposes of party warfare? What sense of the honor of their nation or of the obligations of truth can exist among men who deliberately endeavor to work up popular animosity to England on the ground that Lord Sackville's trumpery letter is "an unpardonable affront to the intelligence and patriotism of the country," and an "official attempt on the part of the British minister to array citizens of English and Canadian birth against the Republican party?" Those who write such stuff as this can hardly expect to obtain credence for what they assuredly do not believe themselves, yet the chance of injuring their opponents among the most ignorant of the Irish voters is too precious to be lost. Mr. Blaine, with the cynical irony which he has often shown in his public conduct, has delivered an impassioned harangue, denouncing Lord Sackville's interference in American affairs, at a mass meeting in New York, presided over by Patrick Ford and addressed by Patrick Egan. The behavior of the Democratic politicians is quite as contemptible and dishonest. They were, at the outset, inclined to pooh-pooh the affair, but they have taken alarm at the vigor with which the Republicans have begun to beat the big drum, and they have taken all the pains imaginable to show that they are not more well-disposed towards England than their rivals. To be charged with being "still desirous of maintaining friendly relations with Great Britain" is an imputation which, it seems, is not to be borne in view of the elections of to-morrow week. During the President's flying visit to New York on Saturday, he had interviews with the leading politicians of his party, among them "two prominent Boston Irishmen, Messrs. John Boyle O'Reilly

and Patrick Collins," and it was decided that something positive must be done about the "Sackville incident." The Democratic newspapers cry "Sackville must go" as loudly as the Republicans. Both parties, we presume, will claim the honors of victory when the withdrawal of the minister is announced, and each will possess the internal satisfaction of having seized, for party purposes, on a trivial error in judgment, and so distorted it and exaggerated it as to create a public scandal, if not to run the risk of setting up an international quarrel. It is our most sincere desire that the English and American peoples should remain always united by the ties of amity and concord; but for the maintenance of that happy state of things no thanks will be due to professional politicians of either party in the United States.

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[Inclosure 8 in No. 842.—Editorial from The London Times, Thursday, November 1, 1888.]

If the interests of two of the greatest communities in the world were not at stake, the treatment of what is called "the Sackville incident" by the politicians of the United States would merely excite a passing sensation of amusement. A more ridiculous spectacle has rarely been witnessed in any civilized country than the flurried and unmannerly haste with which the Government of President Cleveland has endeavored to put a slight on this country, obviously for electioneering purposes, before Her Majesty's ministers could deal, one way or other, with the alleged indiscretion of the British representative at Washington. It is perfectly plain that the Democrats have been put upon their mettle to show that they are not less uncivil and overbearing in the conduct of diplomatic negotiations than the rudest of their Republican critics. Mr. Bayard has had the satisfaction of proving to the world at large that he can be as contemptuously disregardful of the decencies of international intercourse and of the dignity of the nation he represents as Mr. Blaine himself. Whether he will be repaid or not by securing the Irish vote for his party at the Presidential election next week is a matter of supreme indifference to Englishmen. We have a strong conviction that the masses of the American people are animated by sincere good will towards the mother country, and are well aware that a quarrel between the two main branches of the Anglo-Saxon race, whatever its issue, must be disastrous to civilization and progress. But we have also been taught by experience that American politicians, whether Republicans or Democrats, are ready, during the degrading traffic of a Presidential contest, to put all such considerations behind their back, and to engage deliberately, and, we believe, insincerely, in a scandalous competition to win the support of the Irish vote by devising means to insult the British Government. Self-respecting Americans are to be commiserated for their ill-fortune—which is, to a large extent, their own fault—in being politically represented by persons thus careless both of the best traditions of diplomacy and of the interests of two kindred nations. So far as this country is concerned, there is nothing more to be said. It was never denied that Lord Sackville's indiscretion, even apart from the impolite and ungenerous outcry raised against it in the United States, constituted a reason for removing him from a position in which he could not continue to be useful when he had become the object, not so much of popular distrust, as of partisan misrepresentation. The announcement that the British minister at Washington has obtained or is about to obtain leave of absence, and that at the end of his leave he will not return to his present post, is what was, in the circumstances, unavoidable. The American Government can have had no serious doubts upon the subject, and if Mr. Cleveland and Mr. Bayard had thought it necessary or expedient to adhere to the usual practice of civilized states, they would have waited, at all events, to be sure that Her Majesty's Government intended to do nothing, before beating, with an absurd show of peremptory vehemence, at an open door.

The report of the American Secretary of State, reciting the reasons for Lord Sackville's recall, is the more remarkable, because it is in direct contradiction with the very proper sentiments expressed by President Cleveland two or three days ago in the course of an interview with a representative of the principal Democratic newspaper in New York. Mr. Cleveland said truly that the matter was "one of great delicacy;" that the Government "must do all these things with all due dignity, in accordance with the amenities which must prevail between two Governments on friendly terms with each other," and, he added, "without unseemly haste." How far these excellent views are in harmony with Mr. Bayard's blustering report to the President and his dispatch, sent off in hot haste, in order to intercept and anticipate any action on the part of Her Majesty's Government, the British public are in a position to judge for themselves. It must be remembered that Lord Sackville's unfortunate letter to his bogus correspondent in California was only published a week ago, and Mr. Bayard's first communication to the British Government on the subject was of still later date. Yet in sending Lord Sackville his passports Mr. Bayard conceives, or asserts, that all the requirements of international comity have been fulfilled. The Democrats

did not, at first, bestow any great attention on Lord Sackville's error, which the President himself traces to a "campaign trick;" but when they found that their opponents were making capital out of it, they set to work to show that they could make as much noise about an insignificant piece of business as any fire-eating follower of Mr. Blaine or any ardent disciple of Patrick Ford. The President's reserve appears to have melted at the Cabinet council held on Tuesday, when, no doubt, electioneering arguments were freely applied, and when Secretary Bayard's dispatch to Mr. Phelps was sanctioned. The leaders of the Irish Americans who still adhere to the Democratic side—Ford and Egan have linked their fortunes with those of the Republican party—will now be able to assure their followers that England has had a slap in the face. Lord Sackville will not continue to represent the British Government at Washington, a fact of which, though Mr. Bayard ignores it in his published report, every intelligent man must have been assured from the moment the circumstances of the case were brought to the knowledge of Her Majesty's Government. No self-respecting state can desire to force on another country a *persona non grata* as a diplomatic representative; but Mr. Bayard ought to understand that Lord Salisbury, in dealing with Lord Sackville, can not use the "unseemly haste" which President Cleveland deprecated before he had to yield to the remonstrances of the Democratic wire-pullers.

It seems not improbable, after all, that this undisguised pandering to the exigencies of electioneering may do the Democratic cause more harm than good. The most powerful and widely-circulated newspaper in the United States rebukes the Secretary of State for the tone of his report, and remarks that if so unpleasant a thing was to be done, it should have been done "quietly and decently, without bluster." Mr. Cleveland is recommended to get a new Secretary of State without delay instead of one "who scolds like a hysterical woman," and makes the Government of the United States "ridiculous in the face of the whole world." We do not take much interest in these recriminations. Mr. Blaine would probably be as indifferent to diplomatic decencies, if he saw it to be his interest to conciliate the Irish vote, as Mr. Bayard. We trust that when the Presidential contest is over, the native good sense of the American people will keep the State Department in order, and prevent professional politicians from embroiling two great nations who have no really antagonistic interests. The controversy about the Canadian fisheries, which has been unhappily prolonged and widened by American electioneering, would easily be closed if the disputants would be content to dismiss excited feelings and to grapple with the plain facts of the case. Even so able and well-informed an advocate as Mr. Hurlbert is led, as Sir George Baden-Powell, in a letter we publish this morning, shows, into some extraordinary errors, and if his countrymen are under the influence of the same misconceptions, it is not surprising that the settlement of the question has been grievously impeded and delayed. Mr. Hurlbert, for instance, asks, in the letter we recently published from him, how the provisions of the treaty of 1818 were suspended, and hints that this was effected by some mysterious "order in council." If the rights thereby secured to Canada were modified by any subsequent treaty, why, he contends, are not those modifications still operative and in force? Sir George Baden-Powell points out that the modifications in question were introduced by special conventions for a limited term of years, which in each case were brought to an end by the action of the United States in 1866 and 1885. A third attempt to arrange the matters in dispute by an alteration of the treaty of 1818, the only treaty now in force, has failed through the domination of party interests in the Senate. Canada, while determined not to be coerced by her great neighbor into the abandonment of the British connection, has been, and is, willing to forego her strict rights for the sake of peace, and to concede, as was arranged in the convention negotiated by Mr. Chamberlain, all that the American fishermen can legitimately demand.

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[Inclosure 9 in No. 842.—The Daily Telegraph, Friday, October 26, 1888.]

Her Majesty's minister at Washington has been writing a letter on American politics. The mere announcement of such an act is enough to make our old and departed diplomatists turn in their graves. If there is one elementary rule more rigid than another in the canons of international custom and law, it is that which forbids an envoy to interfere in any manner with the internal politics of the country in which he resides. We should think a French or Russain embassador had taken leave of his senses if, on the eve of a general election here, he were to express an opinion in favor of Lord Salisbury or Mr. Gladstone. We are not, as a people, quite so sensitive in this matter as the French, the Germans, or the Americans, but John Bull is still ready to resent anything like suggestion from abroad as to the management of his affairs. During the great debate in 1850, when Lord Palmerston was accused of car-

rying matters with a high hand on the continent, and thus making England unpopular, he referred to the allegation that he had used English influence in France against M. Guizot. He denied the fact, and added that such conduct would defeat itself. "For if the people of any country," he continued, "believed that one of their statesmen was persistently assailed by the envoys of a foreign power, it would induce them not to desert but to rally round him." His hearers, applying the words to himself, cheered again and again, since there was no doubt that Lord Palmerston's popularity in England was greatly due to the fact that, above all our foreign ministers, for many years he was most disliked by Russian, Austrian, and French rulers. This kind of irritable jealousy of all "foreigners," simply because they are not Englishmen, has greatly faded away with us, but it is to this day rampant abroad. It flourishes in France, where M. Ferry is still an object of distrust, because, when in power, he worked cordially with Prince Bismarck. A recent painful controversy indicates how Germans dislike any claim of superiority by English over native men of science or skill. The Americans have had this feeling ever since the colonies coalesced into a state. They believe that England is plotting here and conspiring there, and that, whether she denounces slavery, or befriends the Confederates, or attacks the protective system, her one aim is to cripple and paralyze the Great Republic. The caricature is obvious, yet there are Senators, Representatives, and leading journalists who speak and write as if this picture of John Bull were a true portrait.

Dealing with a people so preposterous in their prejudices and sensibility, Lord Sackville might certainly have been more guarded in the expression of his opinions on the Presidential contest. It appears that a British naturalized citizen wrote to him for information to guide him as to his vote in the impending contest. Lord Sackville answered him privately, but he should not have answered him at all. The letter was addressed to him as British minister, and it is not the business of our representative at Washington to guide American citizens, of English birth or otherwise, in their political acts. It may be said that correspondence is sacred, and that, as the letter was marked "private," the recipient had no right to publish it. This would be a legitimate excuse if Lord Sackville had written to a friend; but his correspondent was a complete stranger, and therefore the letter does not come under the category of ordinary communications from one gentleman to another in the unreserved intercourse of private life. Moreover, Lord Sackville is well aware of the customs and manners of American politicians during a Presidential campaign. He knows that nothing is sacred to the managers on these occasions, and that they would publish their own or their enemy's most confidential love-letters—and, if necessary, forge them—if thereby they could affect the issue. The moment he received the inquiring epistle he ought to have suspected a trap, and have left it unanswered, or else answered it declining to give advice. Instead of this obvious course, he sat down and penned a letter expressing his opinion that notwithstanding President Cleveland's threat of retaliation, the Democratic party is "still desirous of maintaining friendly relations with Great Britain, and of settling all questions with Canada which have been unfortunately reopened since the retraction of the treaty by the Republican majority in the Senate, and by the President's message to which you allude. * * * There is every reason to believe that, while upholding the position he (President Cleveland) has taken, he will manifest a spirit of conciliation in dealing with the question involved in his message." This English certificate to the character and good intentions of one of the candidates has of course been eagerly seized by the opposing party as a convincing proof of his depravity. One Republican journalist says: "The British minister is right in his facts—the President is England's man. He stands for foreign rather than for American interests. But it is an unpardonable affront to the intelligence and patriotism of the country that Lord Sackville, in the pending elections, should take advantage of his official position to influence the naturalized citizens of his own nationality. Americans want no advice from the representatives of foreign courts respecting their political affairs, and they must resent official attempts on the part of the British minister to array citizens of English and Canadian birth against the Republican party." This indignation is, of course, assumed. Lord Sackville's letter is really one of the most precious documents that Republican election agents can command. Already they have denounced Mr. Cleveland as England's nominee. They have published forged extracts from leading London papers expressing an anxious desire for his election. They represent English manufacturers gloating over their gains when, on the reduction of the American tariff by the free trade party, they will pour in their goods, undersell and ruin the rising native manufacturers, and drive to starvation and misery the American workingman. Now, however, they need not rely on inferences and forgeries; they have Lord Sackville's own words intimating his preference for "Cleveland" and his objection to "Harrison." We suppose that the British minister is not at heart a friend to the Republicans, but if he were he could not have helped them better than by allowing it to appear in an official, though private, letter, that he was a partisan of the Democrats. We must ac-

quit him of such disingenuousness, but at the expense of his acuteness and common sense.

The extent to which public men in America pander to the national prejudices is illustrated in an amusing way by some recent utterances of Senator Ingalls to the inevitable interviewer. This wild Senator, whose position alone gives his words some claim to attention, said: "England is the only enemy we have among the nations, and sooner or later we shall be compelled by self-respect, if not for self-preservation, to obliterate every vestige of British power from this hemisphere. There is no alternative. The guns of Halifax and Vancouver are pointed at us. The Canadian Pacific Railroad, built by England's subsidies, makes our northern frontier more vulnerable than our sea-coast. Great Britain, jealous of our supremacy, is inexorably opposed to our territorial expansion toward the pole and the equator. Her circumvallation is complete. Her navy stations and fortresses menace us from every point of the compass." It is perhaps impossible to cram into a short space a greater amount of inflammatory nonsense. Every Englishman knows that there is no concession we would not make, consistent with honor, to avoid what all would consider a most painful calamity—a war with the United States. It would be ungrateful, as well as unnatural, if any Englishmen regarded with jealousy the growth and prosperity of the Great Republic, for it may some day be the sphere of his own exertions or the home of his own children. In fact every English-speaking man has an interest in the future of America. As to hindering the expansion of the United States towards the equator, not we, but Mexico, stands in the way, and the worst enemies of the Yankee race could not wish it a worse fate than an attempt to incorporate the most troublesome people on the face of the earth. As to the north pole, it is the Canadians, with ideas and interests of their own, who object to annexation. If America marches, as the Senator says, on Montreal or Quebec, she will attack England in form, but Canada in fact, and she has to thank her tariff if Canada has developed national manufactures of her own. Every threat of political force or commercial retaliation intensifies the feeling of Canadian nationality, not against us, but against the Republic itself. As to the issue of the Presidential contest, it is no longer of any great interest to people in this country. Although General Harrison is a protectionist President Cleveland is not a free trader, while the retaliation message and recent jobs show that in pandering to international jealousies, and in the arts of political corruption, there is not much to choose between the two parties. An Englishman abroad may write a silly letter, but Englishmen at home care very little who enters the White House next year.

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[Inclosure 10 in No. 842.—Editorial from The London Daily Telegraph, Monday, October 29, 1888.]

By the ignoble little electioneering trick lately played in America, a diplomatic difficulty has been created between the United States Government and that of Great Britain, which is causing a turmoil ludicrously out of proportion to the importance of the matter. A Republican wire-puller with more cunning than honesty wrote, as all know, an innocent-looking letter to the British minister at Washington, representing himself as a naturalized Englishman, and inviting advice as to the course which such a voter should pursue between the rival claims of Mr. Cleveland and General Harrison. Ninety-nine times out of a hundred such a dodge would have had no success with any experienced diplomat, and least of all with our minister in the States, who has an established reputation at the foreign office for caution and reticence. The simplicity of the stratagem, however, betrayed Lord Sackville; in an unguarded instant he seized the pen lying before him, and gave a frank opinion on the subject to his absolutely unknown correspondent, marking the communication "private." Of such a word the person concerned took, of course, no sort of notice; what binds the lips of honorable men could have no force of sanctity for him; the thief who said that "a locked carpet bag makes my knife laugh" must have felt about as much hesitation as this Californian "politician." He instantly published the unfortunate avowal of sympathy with the Democratic side, and then "the fat was in the fire." Nowise loth to profit by the trick thus practiced, the Republican journals instantly blazed out against the embassador and "England's man," as they denominated Mr. Cleveland, and raised a demand that Lord Sackville should be at once sent home. He himself, being an English gentleman as well as an envoy, instantly acknowledged the hapless letter, with expressions of natural chagrin at having been both deceived and betrayed. Meantime the American President's Cabinet could not well ignore the incident. In the present disgraceful condition of subserviency to the Irish vote in the States, nobody wants to be suspected of friendliness to this country. Upon the two questions of home rule and protection, there are stratagems, tergiversations, and intrigue current on the other side of the Atlantic which would make the

least conscientious election agents among us blush, and would disgust a caucus. Something, however, had to be done to wipe off this stain of English good opinion, and accordingly Secretary Bayard suffered himself to say: "It is still to be hoped that we will be able to settle the issue involved in the pending canvass without the importation of foreign interference or intermeddling in our domestic affairs." Mr. Bayard is further reported to be greatly annoyed about the affair, and to have observed, after an interview with Lord Sackville: "The persons who dug the pit for the embassador to fall into will find it a costly experiment. I do not think any fair-minded man can be influenced by it. So far as the Presidential campaign is concerned, I have no fear. What to me is inexplicable is the ease with which Lord Sackville allowed himself to be drawn into the snare. It would seem to me he had lived in America long enough to imbibe at least a little of our Yankee smartness, but it seems he has not."

All this, of course, has to be reduced to diplomatic and official fact and record before Her Majesty's Government can take any cognizance of it. Lord Salisbury can have no knowledge of, and no concern about, a private communication of Lord Sackville's addressed to an eastern "sharp," any more than if it had been the reply to a begging letter or the payment of a hatter's bill. When, however, as seems inevitable now, the matter emerges, by the avowal of our minister of his indiscretion and by the fuss made over it in Washington, into an international "difficulty," then certain considerations must arise. The Americans have somewhat odd and special ways of handling these affairs. Twice before, in the brief history of their States, they have requested a British representative to leave without much notice, and he has quitted his post accordingly. Yet in such cases the embassadorial career of a public servant guilty of no fault was not marred; on the contrary, means have been found to render the undeserved dismissal a fortunate event for its object in his subsequent service. If, therefore, the United States Government should demand the withdrawal of our representative, it is likely that the personal effect of their too ready compliance with the bad and bitter spirit of the contest would end there, and Lord Sackville might find his indiscretion purged by their forcible action. It is quite another thing when an embassador's own Governmen directs the retirement of an envoy. This is in a high degree serious, and must have for its consequences the official "black-marking" of the injudicious diplomatist. Were it to issue even in such a pass, Lord Sackville would be, like the ancient Roman, "happy in the opportunity" of his fall; for he has just come into a peerage, and the family money which his predecessors willed away to the maids of honor has been, it is said, declined by those high-minded ladies. There is a third possibility midway between dismissal by Mr. Cleveland's cabinet and withdrawal by our own foreign office; that is, the resignation of the minister himself, and of course, were it felt necessary or desirable, Lord Sackville would have hastened ere now to place the offer of retirement in the hands of Lord Salisbury. We are half ashamed to discuss so gravely the alternatives which spring from so ignominious a trick, for a trick it certainly was. Investigation at Los Angeles, Cal., has shown that no such a person ever lived there as the correspondent purporting to sign the missive. The plot was laid by Californian Republicans to catch the Irish vote. The Republican press throughout the country, however, declare that Lord Sackville's action was both impudent and dangerous. One journal goes so far as to say, "The letter is not only an impertinent interference in American affairs on the part of a foreign official, but in its terms it is so grossly insulting to the people of the United States and to public men of both parties, from the President down, that the best thing the writer can do is to leave Washington forthwith. If he does not leave of his own accord, he should be put under compulsion." Language like that renders the affair more difficult, of course, to compose with dignity. The character of the agitation raging around the unfortunate simplicity of our representative may be gathered from the fact that Mr. Blaine spoke, on October 23, at a meeting organized by Patrick Ford, who presided. Mr. Blaine made the letter the chief topic of his speech, and appealed to the Irish electors of the country to vote against the candidate approved by the British minister. The speech is described as the lowest kind of demagogic harangue, the following being a fair sample: "The letter has done its perfect work. It was written for Mr. Cleveland; was written to aid him to bring the whole of the naturalized English voters to his support. Are we to have the British minister installed at Washington, giving his opinion as to what we should do in this country in our political and domestic contests?" Nobody knows better than Mr. Blaine how absurd all this is; but it is a season of brazen humbug just now in the States, and the Republican wire-pullers would employ if they could the "thirty pieces of silver" of Judas himself.

The line to take in this country should, it seems to us, be one of the amused and good-tempered indulgence. Nothing can excuse the incontinence of Lord Sackville's pen, except his transparent good faith and candor, and these unhappily exaggerate while they qualify the indiscretion. Diplomatically the blunder, once avowed, is pardonable only by the two parties in the States, one of which can not and the other will not condone it. In the long run, we believe that thousands of honest

Americans will be too much disgusted at the disgraceful trick played on behalf of General Harrison to allow the flatterers of the Irish voters to profit by it. Nevertheless we can all understand without admiring the course taken by Mr. Cleveland's Cabinet, who have good electoral reasons for wishing to be relieved from Lord Sackville's dangerous patronage. It may be hoped, therefore, that the ignominious plot of the Californian Republicans will not be crowned by talk on this side of offended dignity, or such demonstrations as would force Mr. Cleveland into fresh testimonies of his terror of English friendship. Underneath all the foolish turmoil there is a compliment to Great Britain implied in the prodigious weight attached to our opinion of the struggle. The dishonest rogue who penned the false letter, and broke the sanctity of the private seal in the reply, may find his party lose more than it gains by the frank declaration of Lord Sackville. He can not, however, after such a *bêtise*, be allowed to embroil the two nations, and we doubt not that a suitable way will be found to close with propriety and a fair amount of satisfaction the ridiculous event, which might prompt whole volumes of political satire, and has nothing to match it in its disproportion between the circumstances and their outcome since the famous "bucket of Modena."

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[Inclosure 11 in No. 842.—Editorial from the London Daily Telegraph, Thursday, November 1, 1888.]

Nobody will be astonished, although many may be amused and some few offended, at the step to which the letter of a Californian trickster has driven President Cleveland and his Cabinet. Since the disclosure of the British minister's indiscretion currents of telegrams have passed backwards and forwards across the Atlantic between the White House and Mr. Phelps, and the latter, as all know, has been in close communication with Lord Salisbury. It would probably have best suited the authorities at Washington if the prime minister here, being also secretary of state for foreign affairs, had advised Her Majesty to recall Lord Sackville, but for the reasons explained in a previous issue this was, of course, out of the question. The *faux pas* committed by our minister at Washington was personal, and takes what color of trouble and mischief it possesses from circumstances beyond the official cognizance of Her Majesty's Government. It is very intelligible, therefore, that if the United States minister pressed for the recall of Lord Sackville during his stay at Hatfield, or subsequently, reasons of a commanding nature were explained to him which forbade the possibility of any such course. Indeed, it may be doubted if the Washington Cabinet could for a moment expect that the British Government would even entertain the idea of recalling a representative more sinned against than sinning, whose first false move, after a long service of perfect propriety, was to fall into a mean and malignant snare, carefully baited to catch an honorable and frank-minded man. Mr. Phelps accordingly had to cable to Mr. Bayard that whatever had to be done must be done by the United States authorities. We should like to believe that not only Mr. Cleveland and his Cabinet, but all the more honest members of the Republican party, would have been glad to do nothing at all, or, at the most, to disown Lord Sackville's dreadful imputation of friendship to England in a way to show they were ashamed of the means by which it had been made public. The terror inspired by the use which Republican wire-pullers were making of the letter has, however, proved too great for the instincts of chivalry and courage which will return when the Presidential election is over. "Sackville must go" had become a cry on one side and a necessity on the other, so that on Tuesday night it was announced far and wide that the President had given our representative his congé. By Mr. Cleveland's order the American Secretary of State informed Lord Sackville that, "for causes heretofore made known to Her Majesty's Government, his continuance in his present official position in the United States is no longer acceptable to this Government, and would consequently be detrimental to the relations between the two countries."

If under these circumstances Lord Sackville should be inclined to think his political peccadillo harshly visited, Mr. Bayard, in a communication to the President, has done his best to blacken it into the dimensions of something absolutely heinous. The innocent and confiding word "private" is transformed into a diplomatic sin. Under this cover, writes the American Secretary, "Lord Sackville undertook to advise a United States citizen how to exercise the franchise suffrage in an election for the Presidency and Vice-Presidency of the United States, and through him, as the letter suggested, to influence the votes of others." How many votes, forsooth! A dozen, or half a dozen, for certainly nothing was further from our good, honest representative's mind than that his letter should be used as an electioneering manifesto. This, therefore, is palpably absurd, and equally senseless is the charge that "Lord Sackville, in responding to inquiries from representatives of the press, had added to the impugnments already made upon the good faith of the American Government in its public action and international dealing by not disavowing or correcting his statements, notwithstanding that his attention had been called to them." Was our minis-

ter, then, to enter upon a series of palinodes with every editor who asked for explanations, and sit on the stool of repentance in all the newspaper offices of the States? The idea is ridiculous, and the Washington Cabinet would have acted more wisely in issuing their notice to quit to our unlucky representative without "painting the town red" in this undignified fashion. It is a farce all round, except upon the side of Her Majesty's Government, which preserves a wise attitude of observant regret, and everybody in America understands the *mot pour rire* in the matter, and plays his part demurely. Mr. Cleveland must go through with his role of aggrieved horror at the bare charge of being just minded towards England; General Harrison and his party must keep up the comedy of pretending that an incautious note, marked "private," could influence the casting of millions of votes; and all the world knows all the time that if the precious revelation had been made next Wednesday instead of last week, nobody would have taken notice of it. That Mr. Cleveland and his cause will not profit by preferring electioneering tactics to simplicity and manliness is shown in the statement sent by our special correspondent from the other side of the Atlantic. The New York Herald expresses the general feeling in the States that the action of the White House comes too late and too ungraciously. Mr. Bayard, in his communication to the President, inquires if it be not necessary "for the American Government to consider whether, as the guardian of its self-respect and the integrity of its institutions, it could permit further intercourse with Great Britain through the present minister." It evidently occurs to many Americans to ask whether the self-respect of the United States Government might not have been better consulted by treating the ignoble dodge of the Californian rogue with contempt, and Lord Sackville's slip with a reasonable indulgence. The intrinsic innocence of it was plain; but to "twist the tail of the British lion" was a policy the profits of which could not be abandoned to the Irish voters and their friends, so all the good work and guarded conduct of our minister forgotten in a moment, and this inconsiderate measure resolved upon. It is not, and it can not, happily be turned into anything serious. The elements of the farcical and the fictitious abound in the situation, which has no danger because it has no dignity. We confess ourselves, however, far too much the friends of the Great Republic to enjoy the spectacle of its Government being driven by an ignoble trick and by an election howl to heave good manners and great principles overboard, and for the sake of a handful of votes to adopt a course which in private life would be called by painful names.

Lord Sackville is rather to be congratulated than otherwise upon the excessive emphasis of the policy adopted towards him. It first of all saves him from another alternative; that is to say, resignation or withdrawal. It marks and records the matter as being wholly personal, which of course it is. The diplomatic consequences of a step like the present turn largely upon the question whether the discontent against an ambassador be due to an international difference or an individual offense. In 1809 Mr. Smith, American Secretary of State, quarreled with our envoy over certain phrases which the latter had employed in a correspondence, and he had to leave. Three years before that Madison demanded the departure of the Spanish minister over a boundary question; but the Spaniard staid on at Washington to suit his personal convenience until a vote of the Senate compelled his exit. Indeed, the American Government procured the dismissal of the Russian envoy for entirely personal causes and no doubt it is a well-established international rule that an administration may object to the person of an ambassador, and claim his withdrawal. All these points are clearly exposed in "Wharton on International Law," if, indeed, there were any need to consult the high authorities on diplomatic practice. But there is none. Bowed out of America for too much simplicity and candor, Lord Sackville will probably not desire to prolong his stay there. The first secretary of the legation will discharge the business until it be convenient for Her Majesty's Government to appoint a successor who, whatever his other faults, will assuredly never confide his personal sentiments to that seal of privacy which suffices in some countries to protect a well-meaning man. Anybody may make a slip, after years of caution and reticence; and certainly the action of the United States Government is precisely calculated to purge the venial fault of our representative, and to remit him to his official chiefs not in the least disqualified for some high post, if he should aspire to it, where the rules of friendly and civilized intercourse are not liable to be cast aside at the clamor of a faction or to win the "sweet voices" of Irish-American conspirators.

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[Inclosure 12 in No. 842.—Editorial from the London Standard, Monday, October 29, 1888.]

The indiscreet conduct of Lord Sackville has not, as will be seen from our New York telegram this morning, been allowed to pass without diplomatic action. It is not correct to say that the United States Government has already asked for the recall of the British minister at Washington; but it has taken a step little short of that ex-

treme measure. Mr. Bayard has instructed Mr. Phelps to lay the facts of the case before Lord Salisbury; and as the American minister proceeded to Hatfield on Saturday, some definite announcement on the subject may be expected in the course of a few hours. Mr. Phelps, as we have said, is not authorized to request the immediate withdrawal of our ambassador, but he is clearly empowered to point out to the prime minister that Lord Sackville is no longer a *persona grata*, to use the technical language of diplomacy, at Washington, and that communications between England and the United States would be more satisfactorily conducted through another channel. This is the substance of the statement which President Cleveland is said to have made on the subject. The initiative of relieving the strain is left with the British Government, but if they decline to take action, we are given to understand that the Americans will act for themselves. It does not, of course, follow that so unpleasant an alternative as the expulsion of our envoy will be resorted to either at all or at once. In an analogous case the ambassador of another European power remained at Washington for six months after his Government had received an official intimation that his withdrawal from the the Federal capital would be welcome. The more blustering politicians in America tell us that Lord Sackville will be allowed less indulgence, and that if a speedy decision be not arrived at by the British foreign office, the State Department will expedite matters by sending him his passports. Of course this is an exaggeration, but in any case the situation is sufficiently delicate. Lord Salisbury finds himself in one of those difficult and trying positions which may well make men of strong will and resolute character shrink from what Macaulay calls "that invidious, that closely-watched slavery, which is mocked with the name of power." We do not doubt that the prime minister will come to the right decision, nor can we have much misgiving as to what that decision ought to be. We shall not suffer ourselves to be browbeaten; at the same time we are not going to quarrel with the United States Government over Lord Sackville. It is unpleasant for an English prime minister to be called upon to inflict a stigma on a trusted representative of this country, more particularly when nothing can be urged against him but a single act of imprudence, and that, in itself, comparatively trivial. The natural inclination of every foreign minister is to support his subordinates, and to make their quarrels his own. But this praiseworthy loyalty can not be carried so far as to injure the national interests. The Americans have a clear case against Lord Sackville. He committed what they are pleased to consider a grave breach of international comity, and what was, at any rate, an infraction of diplomatic etiquette. When, therefore, they declare that they can not transact business with this ambassador, we are bound to admit that they are, technically at least, in the right, and that the speediest method of ending an embarrassing episode will be to find some other sphere of usefulness for our present representative at Washington.

In saying this, we do not in the least desire to cast any serious reflection upon Lord Sackville. The Americans have made too much of the incident. They are in the thick of a fierce Presidential contest, and in the fever of political excitement which it generates all other interests are temporarily forgotten. It was not to be supposed that either party would fail to make use of so promising a subject. The one faction finds in it an admirable opportunity to inflame that anti-English sentiment which can always be counted upon as a certain force in American politics; the other, anxious to show that its nationalism is no whit less intense, is still more energetic in denouncing the author of the mischief. True no great harm has been done. The chances of General Harrison and Mr. Cleveland are not in the smallest degree influenced by the fact that an English gentleman has allowed himself to express a cautious and mildly-worded opinion on the merits of the controversy. Nor is there anything in Lord Sackville's letter to which a large number of American citizens would not willingly subscribe. Indeed, when we recollect the indecent fashion in which American legislatures and officials have openly approved, encouraged, and abetted a dangerous agitation in these islands, we find it difficult to believe in the reality of the anger which finds such vigorous expression in the New York journals. To show a slight and guarded preference for one of the political parties in America is a very different thing from passing votes of condolence with men whom English tribunals have been compelled to punish as criminals. But two blacks do not make one white. We may well believe that the wrath of the Americans is very much in excess of what the occasion demands, and that nothing would have been heard of the affair if it had occurred in connection with anything else than a Presidential election. We may assume, and with abundant justification, that Lord Sackville's letter is regarded as no more than a missile with which each party can conveniently inflict some damage on the other. None the less, Lord Sackville has put himself in the wrong. It is contrary to all international usage for an ambassador to interfere, even informally, in the internal politics of the State to which he is accredited; nor does the fact that the Americans habitually meddle with our domestic affairs excuse this violation of a useful custom. We do not know that matters are improved by the statement that the letter to which Lord Sackville replied was something very different from what it purported to be. It

probably was a mere ruse, intended to draw from the British envoy an expression of opinion which would be damaging to a party already accused of too much complaisance towards England. Such tricks as these are not very creditable to the American sense of honor. They show considerably more of that quality which the Americans call "cuteness" than of delicacy or integrity. Lord Sackville says that a trap was laid for him by unscrupulous partisans. Possibly. But it was his business not to fall into traps. An ambassador who allows himself to be betrayed into indiscretion by such a clumsy piece of malevolent imposture discredits himself. We sympathize, to a certain extent, with Lord Sackville, but there would have been no occasion for sympathy if he had practiced that habit of reticence which is about the first lesson a diplomatist has to acquire.

By this time, no doubt, Lord Sackville sees all this quite as clearly as his critics. Fortunately, there is one obvious way in which he can make atonement for his error of judgment. The most simple and satisfactory solution of the difficulty he has innocently created would be for him to tender his resignation. This would, no doubt, be accepted, and it would not prevent his further employment in some other office or at some other capital. It would be a pity if the public service were deprived of the knowledge and the experience he has acquired; nor is it likely that he will again offend by writing political memoranda in answer to casual and unknown inquirers. If this course is adopted nobody, not even Lord Sackville himself, will be much the worse for the incident. If it is not, we are not at all sure that the affair, trivial and unimportant as it really is, will pass over without leaving some unpleasant memories behind. The removal of Lord Sackville, if he should fail to see the advisibility of retiring voluntarily, can hardly be effected with the headlong haste which some thoughtless American politicians expect; still, every day that he remains at Washington must add to the difficulties of a situation which is already sufficiently strained. The sooner both parties in America are able to forget Lord Sackville's indiscretion, the better will it be for them as well as for us; for it certainly can not be in the true interests of the Union that a furious outcry against a foreign and friendly power should be on the programme of an electioneering campaign. The wisest men in America must deplore the outburst of anti-English feeling which has accompanied the present contest for the Presidency. Knowing as we do the conditions under which American party leaders retain their ascendency, and the unfortunate necessity which forces them to court the Irish vote at all hazards, we do not attach undue important to the Chauvinistic clap-trap which has been current in the United States for some months past. For their own part, Englishmen have no other desire than to remain on good terms with their kinsmen beyond the Atlantic; but they can not help feeling that their friendship has been exposed to a rather severe test by the repudiation of the fisheries treaty and the recent acts and speeches of a good many American politicians. There is no necessity to allow any fresh cause of irritation to arise; and since Lord Sackville, in perfect simplicity and good faith, has rendered himself an object of invective and distrust in Washington, the best thing he can do to make amends for a slight, but very unfortunate, mistake is to offer to withdraw.

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[Inclosure 13 in No. 842.—Editorial from The London Standard, Thursday, November 1, 1888.]

We print elsewhere the text of the letter in which Lord Sackville was made acquainted with the wishes of President Cleveland for his withdrawal, and it forbids all further hope that the object of the American Government was not to do an offensive thing in the most offensive way. The matter would have been serious enough had Mr. Bayard confined himself to informing the British ambassador that he was no longer a *persona grata*, and that, as a corollary to this, it would promote the easy course of diplomatic relations if some other representative were occupied in his room. But delicacy of this kind was carefully eschewed in the State Department. The art of composition was exhausted in straining after coarse effect. "Lord Sackville," who was no longer recognized, even in the address on the envelope, in his official capacity, was told, with studied curtness, that his stay at Washington would be detrimental to good relations; and, to point the insult, he was furnished, as an inclosure to the notification, with a letter of safe conduct through the Territories of the United States. There is nothing here to translate; no innuendo to develop; no covert sarcasm to explain. Everything is blunt and plain. The British ambassador is ordered out of the country, and pains are taken to make the order wear the aspect of an unmistakable affront. American diplomacy can be polite when it pleases; in this instance the object was to be disagreeable, and the only fault the critic can find is that the thing was overdone. Of course, there are precedents for the dismissal of an ambassador; but the search for them will take the student into cases of gross provocation and the extreme of enmity between nations. We are less concerned, however, to examine Mr. Cleveland's reasons than to consider the actual result of his deliberations.

He has done to the minister of Great Britain what British statesmanship would hesitate, save for grave cause, to do to the representative of the smallest State in the world. No option is given; no chance of keeping up dignity and saving appearances. The President is not satisfied to renounce diplomatic intercourse with the accredited agent of a friendly power, but must needs, of his own motion, strip him of all title to the functions for which he is accredited. He degrades our ambassador before ordering him to leave the country. Lord Sackville is not allowed the ordinary hospitality of American soil; he is told to go, and go at once. If war had been declared between the two nations, the State Department could have done nothing more obtrusively unfriendly. We may even say that in such a case the same care would have been taken to mitigate the personal unpleasantness as, thanks to Mr. Bayard's trenchant style, has now been taken to emphasize it. Considered as a mere matter of etiquette, the course pursued at Washington will not redound to the credit of American manners. But that, of course, concerns the Americans; for Englishmen it is quite enough to feel that their ambassador is being hustled out of the United States in the most contumelious fashion.

The worst feature in the case is that, outside of political circles, there is not an intelligent man in the United States who considers the incident that gave rise to this discourtesy one which statesmen burdened with any sense of true dignity would have thought worth a moment's notice. We are glad to observe that, even within the limits of the President's authority, there are many publicists clear-headed enough to see the absurdity of the figure which Mr. Cleveland and his advisers insist upon cutting in the eyes of the whole world; and it is only just to add that if a Presidential election were not in the air, sanity would not be the exception. Mr. Cleveland, we doubt not, personally despises the follies and the littlenesses which he has to humor by this descent into petty spite. He is the slave of his wire-pullers and managers, and since they think that his Republican rivals may make capital out of the affair, the President, who sincerely desires to be re-elected, must not be too nice about the decencies of diplomacy. During the electoral period everything is at sixes and sevens, and the rules of sound sense and good taste are by common consent suspended. The "narration of facts" which Mr. Bayard has communicated to the American press is welcome, so far as it implies that the Secretary of State is conscious that the course he has taken needs explanation. We gather that the point in Lord Sackville's conduct on which the Washington cabinet fastens as matter of particular offense is his imputation of personal and partisan motives to the President. It is not so much foreign interference that stings as the incidental comments on the ways of American party men. We should not have thought this, we confess, an adequate or even a colorable excuse. Mr. Phelps and Mr. Lowell have more than once told Englishmen wholesome though unpalatable truths about the tendencies of their domestic politics. Yet neither of them ever received his passport. "The attention of the British Government," Mr. Bayard continues, "had been drawn, in a spirit of comity, to the conduct of its minister, with an expression of the opinion of the American cabinet in regard thereto, without result." And because there was no result, in the sense desired, the President, we are to understand, was driven to the extreme step of summary dismissal. It is much to be regretted that the English nation has to depend for material for a judgment on the action of our foreign office on the fragmentary and *ex parte* statements made at Washington. The English people, who are aggrieved by the insult offered, rightly or wrongly, to their representative, are entitled to know, on the best authority, how far reasonable satisfaction has been offered to the United States. Whether Mr. Bayard be justified or not, the indignity to Great Britain is the same. If Lord Sackville has been rightly treated, we can not reproach Mr. Cleveland; but, in that case, we must certainly blame Lord Salisbury for having exposed us to a public affront. If, on the other hand, our foreign office made such concessions as usage demands to American susceptibilities, it is well that the country should be reassured on the subject. Indignation will not be lessened if it turns out that there was no color of pretext for the wrong of which we complain; but there will be no element of self-reproach to add to our chagrin. There is, of course, a well-understood rule in cases of disputes between two governments, that neither side shall without the consent of the other, disclose the communications that pass between them. Mr. Bayard, though he lays stress upon the rule, appears to have interpreted it very laxly. We do not ask Lord Salisbury to follow his example, but the English people have a right to some official information from our own foreign office regarding a matter which deeply affects our honor, and which is the common property of every politician in the United States. It is possible for a prime minister, in a matter of this sort to be too reticent.

With regard to Lord Sackville personally, we can only say that what is done can not be undone. Under any circumstances he could have had no long stay at a capital where his presence had become distasteful, and we assume that he will not make a feint of staying after he has received an unmannerly *congé*. The miserable trick out of which the business grew does not fortunately touch in the remotest way on

the general political relations of the United States and Great Britain. Even the fisheries question will not be prejudiced by Lord Sackville's anticipations that Mr. Cleveland would, in spite of campaigning rhetoric, do whatever fairness and the spirit of conciliation prescribed. But in the meanwhile are we to take no notice of the slight offered to us? Are we to sit down quietly while our ambassador is sacrificed to the exigencies of American party life? We understand too well the origin of the unpleasantness to resent it with any lasting depth of feeling. No one thinks a whit the more harshly of our friends beyond the Atlantic on account of the little piece of unfriendliness into which their domestic rivalries have betrayed them. But, while we keep our resentment strictly within the narrow sphere of the provocation, the question of retaliation is not to be dismissed at once. Mr. Phelps is distinctly popular here; conforming in that respect to the all but uniform precedent set by his predecessors. Still, if the strife of Democrats and Republicans has involved Lord Sackville's disgrace, it might be deemed proper to show our sense of wounded dignity by tendering Mr. Phelps his passports. Every Englishman would regret the loss of so excellent a guest, and, no doubt, the feeling that we were following about the worst possible example that could be set would, in itself, serve to deter us from taking this course. But the instinct of retaliation does not always wait to argue or to discriminate about the virtues of individuals.

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[Inclosure 14 in No. 842.—Editorial from the London Standard, Friday, November 2, 1888.]

Everybody in England is agreed that we have just received a deliberate affront from the Government of the United States. Now, there are various ways of encountering an insult; but, whatever mode of treating it be adopted, the offended party ought, at least, to make it apparent that his conduct is not inspired by timidity or want of spirit. If he fails to do this, he will naturally become the favorite butt of all those ill-conditioned persons who love to exhibit their insolence when they can do it without fear of retaliation. And what is absolutely true of private individuals is substantially true in an equal degree of nations and communities. It has pleased the republican Government of the United States to put an affront of the most ill-mannered and unwarrantable character on this country; nor does the outrage lose its significance because it was avowedly inspired by the lowest and most unworthy motives of party interest. What ought to be the response of Great Britain to the curt and summary expulsion of Lord Sackville from Washington? Ought we to turn our cheek to the smiter, to send another ambassador across the Atlantic, and to treat the letter of Mr. Secretary Bayard and the act of Mr. Cleveland with contemptuous indifference? We observe that there is a disposition at home to take this line, nor do we for one moment seek to deny that there are abundant elements, both of the grotesque and despicable, in the incident. But it should be remembered that though, in private life, a gentleman may abstain from taking notice of a gratuitous piece of rudeness from some underbred fellow, without laying himself open to the suspicion that he is afraid of entering into a quarrel with a forward adversary, no two nations can occupy a relation of that kind towards each other. England and the United States are supposed to be on a footing of perfect equality; and the moment the idea of equality prevails the obligation of reciprocity is forthwith established. Now, let us ask ourselves, what would have been the reply of the Government of the United States if, on the assumption that Mr. Phelps had done no more than was inadvertently done by Lord Sackville, the American ambassador had been given his passports, and ordered, in a rude letter from Lord Salisbury, to quit London? Does anyone imagine that, under such circumstances, the British minister at Washington would have been permitted to remain there by the American Government. No: no one does. We all know that he would at once have received precisely the same treatment that had been accorded to the representative of the United States in this country. We should most assuredly have read nothing in the New York journals about the exacting necessities of party politics in England, nor would the Americans have been satisfied with shrugging their shoulders, and saying that John Bull always was rather a testy sort of person. We very much doubt whether the Government of Washington would even have been satisfied with a mere tit for tat. On the contrary, we are pretty sure that it would have replied to the insult by an affront of a yet more offensive character, and that the relations of the two countries would have been seriously endangered.

But it will, perhaps, be said that, notwithstanding Mr. Bayard's affectation of injury, both he and the President of the Republic, and the people of the United States, are perfectly well aware that Lord Sackville has, in reality, done them no wrong whatever, and that Lord Salisbury and the English nation are expected to understand this and to make allowances for the straits in which American politicians of

the highest rank find themselves, on the eve of a Presidential election. Will it not, therefore, be better, it is urged, to enter into the spirit of the comedy, and not to spoil sport by taking seriously what is not seriously intended? This line of argument is not unintelligible, and, up to a certain point, the English people have a sufficiently keen sense of humor to enter into the joke, vulgar and coarse though it may be. But it is rather a strong proposal to suggest that our good-natured toleration of American Presidential exigencies should go to the extent of allowing the Queen's representative to be treated, in the face of the whole world, in an offensive, insolent manner. However superior we may think ourselves in the matter of good breeding and seemly behavior, we can hardly, without loss of reputation, permit our ambassador at Washington to be expelled from the United States as though he had been guilty of some heinous crime, or as though no reparation whatever were to be obtained for a trivial indiscretion. Unless it should appear that Lord Salisbury categorically refused to recognize that Lord Sackville had committed an error of any kind, the allegation of Mr. Bayard that ample time had been given to the English Government to consider what course it would pursue is simply a piece of impudent disingenuousness. A glaring offense, concerning which there is no dispute, is visited by prompt punishment. A fault of a trivial character, such as that undoubtedly committed by Lord Sackville, is usually inquired into, by fair and honest men, before any penalty is affixed to it. But, indeed, there is no necessity to argue this point. It is no more denied on the other side of the Atlantic than it is doubted on this, that the Government of the United States jumped at a timely though not even plausible excuse for insulting England, in order to win back the wavering Irish vote for the Democratic party. We recognize, in one sense, the overpowering cogency of the motive. But we should be curious to know if the same cynical experiment would have been ventured upon with Germany, or Russia, or France? No doubt the English minister is the only minister out of whose improper treatment any valuable party capital is to be made. But, if it were otherwise, does anybody believe that Prince Bismarck would have been called on to deal with such an affront as that concerning which Lord Salisbury is now deliberating? If the answer be given in the affirmative, we can only say that Prince Bismarck would assuredly make uncommonly small allowance for the "exigencies of American politics" and Presidential elections, but would quickly show Mr. Cleveland that Germany has not the smallest desire to be civil to the United States, the moment it becomes apparent that the United States is wanting in civility and consideration to Germany. To ask what Lord Palmerston would have done, under similar circumstances, is a waste of breath; for in the days of Lord Palmerston no English ambassador would have been exposed to such scurvy treatment.

We yield to none in the desire that the relations of Great Britain and the United States should be not only friendly, but intimate and cordial, and in the feeling that a serious quarrel between the two nations would be one of the most deplorable calamities that could befall the world. But we are unable to believe that those relations can be cordial, intimate, friendly, or even tolerably good, while one nation periodically permits itself to assume an insolent attitude, and the other nation tamely submits to the pretension. No doubt, quickness to take offense is the mark of the *parvenu*, whether among individuals or among nations. England is a powerful and an old-established state, and we can afford to ignore certain breaches of good manners which a younger or weaker nation would be disposed to resent on the spot. But it will not be for our advantage to acquire a character for tamely putting up with affronts and contumely which other states would not suffer for an instant. Neither, in the long run, will it be for the advantage of the United States. For the belief that England may be insulted with impunity will grow with repeated practice, until the American people will come to believe that, under the "exigencies" of their domestic politics, there is nothing in the shape of diplomatic outrage they may not safely attempt against us. At last some intolerable affront will be offered. The recollection of past affronts of a minor character would come into play, and there would be an open quarrel between the two countries. We are all in favor of a calm and composed consideration of insults, real or alleged; but we are by no means in favor of a pusillanimous toleration of them, when they are proved to be insults. In this case, the insult is avowed, deliberate, and calculated—not, indeed, with the object of insulting or irritating us, but of using our good nature or want of spirit for their own domestic purposes. Writing in this most tranquil temper, we are forced to add that Lord Salisbury will either have to devise some means of giving expression to the displeasure of this country, or he will fall below what is expected of him, and what is due to the honor of his sovereign and his nation. Whether Mr. Phelps be or be not left here in peace, some expedient must be discovered for conveying to the Government and the people of the United States our sense of the unfriendliness and unmannerliness of their conduct. Unless this be done, what man of ordinary spirit can be expected to accept the post of representative of the cabinet of St. James at Washington? Who will care to be the successor of Lord Sackville, if the outrageous

affront to which he has been subjected—outrageous because out of all proportion to his offense—be treated as of no consequence? What, too, will be thought in Canada, in Australia, in India? Even if we were disposed to permit ourselves to be insulted with impunity, it would be necessary to remember that we can not afford to do so.

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[Inclosure 15 in No. 842.—Editorial from the London Daily News, Monday, October 29, 1888.]

LORD SACKVILLE'S LETTER.

It is announced that the Government of the United States has communicated to Lord Salisbury a remonstrance against the conduct of the English minister at Washington and a request for his recall. To retain a representative in a foreign country where his presence annoys the Executive is practically impossible, and Lord Sackville will in all probability be speedily removed to another post, unless he should prefer to retire from the diplomatic service altogether. Nothing but a sense of duty could make the owner of Knole Park desire to "lie abroad for the good of his country." But Lord Sackville has served England so faithfully, and has recently done such important work in connection with the great fisheries dispute, that every one would regret so untoward a termination of his official career. Lord Sackville has been for more than forty years a professional diplomatist. He has been for seven years head of the legation at Washington, and we are not aware that any complaint has ever been made of him before. In June, 1885, when Mr. Gladstone resigned, and Lord Salisbury became prime minister for the first time, Mr. Sackville West, as he then was, received the honor of a knight commandership in the order of St. Michael and St. George. A week ago most people would have described Lord Sackville as one of those valuable agents of international affairs who are so little conspicuous because they are so completely successful. Now our New York correspondent informs us that a popular heading in the American newspapers is "Sackville must go." If the fishery negotiations had been left to him, instead of being intrusted to a boisterous bungler from Birmingham, it is practically certain that a permanent treaty between Great Britain and the United States would by this time have been ratified by the American Senate. The verse of Menander about the effect of evil communications is something musty. But it would really seem as if Mr. Chamberlain's bad example had thrown Lord Sackville off his diplomatic balance. That Her Majesty's plenipotentiary at Washington should advise an American citizen how to vote in an impending Presidential election is one more astounding addition to those "follies of the wise," which unhappily sometimes occur before the "last scene" where the poet would charitably confine them. Seldom, indeed, has a mischievous act been committed in so transparently innocent a manner and with such a complete absence of adequate motive.

Lord Sackville, we are told, now realizes what he might have suspected before, that the letter of inquiry addressed to him was an electioneering trick. It purported to come from a resident in California named Murchison, who described himself as a natural-born British subject. There was in reality no such person, and Lord Sackville was the dupe of a local reporter. It must be perfectly obvious to the humblest intelligence that the fact of the pseudo-Murchison having once owned allegiance to the Queen would have given him no special claim upon Lord Sackville, and that the last thing he had a right to demand from the British minister was political advice. No man can be at once a British subject and an American citizen, though Lord Brougham is said to have contended that he himself could be at the same time a member of the English House of Lords and the French Chamber of Peers. If "Mr. Murchison" was a British subject he had no right to vote in the Presidential election next month. If he had been an American citizen he would have had nothing to do with Lord Sackville. These are the beggarly elements of international law which has long since abandoned the absurd doctrine that no one can divest himself of his nationality. Lord Sackville, by some extraordinary mischance, "fell headlong into the trap which had been laid for him. He wrote a letter which in a lucid interval he marked "private," but which the demon of mischief prevented him from tearing up as soon as he came to read it through. In this singular document, "Mr. Murchison" is, with much circumlocution, recommended to vote for President Cleveland's continuance in office. Lest there should be any mistake about the minister's meaning, he inclosed an article from the New York Times in support of Mr. Cleveland's candidature. The publication of what Lord Sackville had so indiscreetly written was of course absolutely indefensible. It is a grossly dishonorable act to print any private letter without the consent of the writer. There is no exception to this rule, which no respectable paper would transgress. But what did Lord Sackville expect? People who play tricks on the eve of elections are not bound by nice scruples of conscience, and he had appar-

ently never heard of any Mr. Murchison before. His letter has been placarded far and wide by Republicans who care more for the success of General Harrison than for the security of personal correspondence.

Every Englishman must sincerely hope that Lord Sackville's indiscretion will not in any way affect the great contest in which the United States are about to engage. Our New York correspondent assures us that the respectable leaders of the Irish party despise the attempts to influence their votes by this paltry maneuver. The letter itself is as harmless as such an effusion could be. There is not a word in it about purely American politics, such as tariff reform. There is no reflection whatever upon the Republican party, and no allusion to the Republican candidate for the Presidency. Lord Sackville, in short, could not have done an improper and imprudent thing in a less offensive and objectionable manner. Our correspondent does indeed represent that the President and Mr. Bayard regard as an unpardonable affront the reference to the political object of Mr. Cleveland's message. But we can not help thinking that this is a misinterpretation on their part. Only boobies believe what Lord Sackville is supposed to have said. It has, indeed, been argued by some too ingenious apologists of Lord Sackville that, as Mr. Cleveland is still President of the United States, the British minister was only upholding constituted authority. But this will not do. Mr. Cleveland was elected for four years, and at the end of that term his commission ceases. He may be re-elected, as several of his predecessors have been. That contingency, however, depends upon a popular vote, which has not yet been taken, which may be hostile to him, and with which Lord Sackville has no legitimate concern. The election will in all probability turn far more upon the financial or economic question, and upon the individual merits of the candidates, than upon the issues in which Lord Sackville is naturally so much interested. We do not believe that there is any party or body of Americans unfriendly to this country, except that most Irishmen, whether they live in the United States or elsewhere, detest and abhor the coercive government of Lord Salisbury. If the Paper Union were worth the dangers and inconveniences it occasions, Englishmen would know how to confront and bear them. It is not worth them. That, however, is a matter to be decided at another election, which can not come too soon. Lord Sackville has done nothing for which an honest man need be ashamed. But there are blunders, as the last Lord Derby was not the first to discover, which are worse than crimes. Lord Sackville's error is in reality far smaller and of far less consequence than the blazing indiscretions of Mr. Chamberlain. Lord Sackville only believed that everybody was as simple and straightforward as himself. He "remembered to forget" Sir Henry Totten's famous saying that a diplomatist could cultivate a frank demeanor, and and keep his opinions to himself.

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[Inclosure 16 in No. 842.—Editorial from The London Daily News, Thursday, November 1, 1888.]

LORD SACKVILLE AND MR. BAYARD.

Lord Sackville may be congratulated upon having involved his country in the most serious misunderstanding with the United States since the settlement of the Alabama Claims. As we have already said, there was not very much in his letter, apart from the fact of his having written it, which ought to have excited American feeling. But the English minister did not, unfortunately, mend matters by the interviews which he granted to American correspondents at Washington, or by the language which he held on those occasions. The palpable result of departing from diplomatic reticence, if it taught him nothing else, might at least have taught him to hold his tongue. He has succeeded in making bad worse, and has deepened the impression, previously a very slight one, that he intended to charge the American Government with insincerity in its international dealings. That is an accusation which, even if it were true—perhaps especially if it were true—no high-spirited people would endure from the representative of a foreign power. We have never seen any reason, and we see no reason now, to charge President Cleveland with inconsistency or want of candor in reference to the question of Canadian fisheries. He did his best to procure the conclusion of an honorable treaty. The Senate, in the exercise of its undoubted right, and for causes which, whether good or bad, were relevant, declined to ratify the instrument. Thereupon the President took retaliatory measures, of which we need say no more than that a competent judge might honestly regard them as the best alternative to the rejected treaty. Englishmen ought to be ashamed of the childish pettishness which attributes to the supposed weakness of American institutions every hitch in the business of diplomacy. One of the ablest American journals regrets the undue importance which has been attached to Lord Sackville's letter, and so do we. But we must take things as we find them, and the man who has made a mistake, however innocently, can not complain of the inevitable consequences. Lord Saulsbury's Irish policy has inflamed a number of American

citizens, who never forget that they are Irishmen, with hatred of the British Government. The dispute with the Canadians has made the maritime States jealous of any favors shown to British interests. The Republican leaders have rather absurdly represented Mr. Cleveland's zeal for tariff reform as what Mr. Goschen would call a "surrender" to British principles of free trade. In these circumstances, the President naturally desires to clear himself from all suspicion of courting British support in a matter where this country is not concerned. If he had taken no notice of Lord Sackville's indiscretion, the election might have been decided by a false and collateral issue, to the serious detriment of American politics.

It is much to be regretted that the American Secretary of State should have acted with an apparent want of personal courtesy towards the British minister. Unfortunately, it is not easy to understand the position or the conduct of Her Majesty's Government. Mr. Bayard has, it seems, communicated with Lord Salisbury, but has elicited from him no satisfactory reply. Thereupon he has informed Lord Sackville that the latter's continuance at Washington would not be acceptable to the American Government. This is an extreme step, which is very seldom taken except on quite different and infinitely more serious grounds. But our New York correspondent informs us that it meets with general approval, and that the members of the President's own party are especially jubilant. It is impossible to form a comprehensive judgment upon Lord Salisbury's behavior in this delicate matter until he has had an opportunity of describing and explaining his own course. On the face of things, however, it would seem as if the very unpleasant complication into which this extraordinary blunder has now grown might have been avoided by a little more vigor and promptitude in Downing street. Lord Palmerston's principle of standing by his own subordinates has much to recommend it where attacks are made upon character, and where the truth of the allegations is doubtful. But Lord Sackville's character is not impugned, the facts are patent to all the world, and the possibility of a minister's usefulness is gone when he has ceased to be on good terms with the Government to which he is accredited. If Lord Salisbury had recalled Lord Sackville on the first receipt of a complaint from Mr. Bayard, much unpleasantness would obviously have been averted. This is emphatically one of those cases where two heads are better than one. Often as we have had occasion to deplore the combination of two incompatible parts in the person of Lord Salisbury, there has never been a stronger instance of the inconvenience than this incident affords. Every foreign secretary, except Lord Palmerston in his later tenure of the office, has been subject to the control of the prime minister, and when Lord Palmerston became too independent he was finally dismissed by Lord John Russell. There is much in Lord Salisbury's foreign policy with which we have been able entirely to concur. It is as different as possible from the reckless adventures of Lord Beaconsfield, and we do not wish to make any attack upon it now. But we must once more protest against England's relations with the world being exclusively determined by a single man.

Mr. Bayard's view of the matter is plain enough, and it may be found in an interesting passage from his letter to the President, which our New York correspondent has telegraphed to us. Lord Sackville has, according to Mr. Bayard, aggravated his original misconduct, first by repeating the allegations in his letter to representatives of the American press, and secondly by not disavowing his imputations upon the Executive when his attention was called to them by Mr. Bayard. We can not help thinking that Mr. Bayard exaggerates the meaning of Lord Sackville's letter, which was certainly not directed against the persons who more particularly complain of it. But there is no use in going back upon that now. Lord Sackville can do no more good in Washington, and to keep him there after the President has practically refused to receive him merely adds fuel to the flame. Lord Salisbury is a man of great ability, and as a dispatch writer it would not be easy to surpass him. But his judgment is not equal to his cleverness, and there are many far duller statesmen in whom the public would feel greater confidence at a crisis like the present. When the New York Times says that "the British authorities failed to act with the promptness which we had a right to expect," it is disagreeable to feel, but impossible to help feeling, that there may be some foundation for the reproach. Lord Salisbury, however, it must in fairness be remembered, is bound to take the Queen's pleasure, and Her Majesty is at a considerable distance. Nobody, except perhaps the President, comes out of this quarrel very creditably, and even he had better not have given publicity to his opinion that Lord Sackville is wanting in common sense. Mr. Bayard, who complains of Lord Sackville's garrulity, was equally garrulous himself; and the New York Herald roundly urges, not the recall of Lord Sackville, but the dismissal of Mr. Bayard. "Lord Salisbury," says that journal, "has by mere silence gained the advantage for his Government." Lord Salisbury would certainly have been very wrong to make speeches about international negotiations before they were completed. If, however, Lord Salisbury has pushed his reticence so far as to make no adequate response to the American Government's demands, he has only invited for Lord Sackville additional and avoidable humiliation.

[Inclosure 17 in No. 842.—Editorial from the London Daily News, Friday, November 2, 1888.]

LORD SACKVILLE'S EXIT.

The American Government has unfortunately proceeded to the last extremity with the British minister at Washington. On Tuesday afternoon Lord Sackville received from Mr. Bayard a letter which practically amounted to a notice to quit. Lord Sackville was informed that his continuance in his present official situation is not desirable, and that a safe-conduct was therefore forwarded to him. The incident is an unhappy one, and will not improve the relations between the two countries. But it undoubtedly has its comic side. Lord Sackville tried to do a little bit of mild electioneering on behalf of President Cleveland, and the result is that the President sends him packing. As the Presidential election is fixed for next Tuesday, Mr. Cleveland was doubtless pressed for time. Lord Salisbury, on the other hand, seems to have thought that he had better not make up his mind in a hurry, and that the opportunity was favorable for a series of protracted negotiations. A foreign minister, however, can not always act with the deliberation which befits a judge, and in this case the iron should have been struck while it was hot. The dignity of the country has not in the least been saved, nor the character of Lord Sackville protected by Lord Salisbury's imprudent hesitation. If the United States had acted with undue precipitancy, or with an insufficient regard for diplomatic propriety, that was their affair and not ours. Rudeness injures the party guilty of it, and not the party against whom it is employed. Individuals are the proper guardians of their own honor, but for a nation to resent a slight in the only substantial way is a grievous crime. As the wildest shrieker of "Rule Brittannia" would not dream of going to war for Lord Sackville, the obvious course—the one dictated alike by self-respect and common sense—was to recall him as soon as his recall was desired by Mr. Cleveland and Mr. Bayard. The usefulness of an ambassador or a minister depends partly upon his acceptability to the court or Government which receives him, and they possess a practical veto upon his retention in office, as well as upon his original appointment. A foolish and ill-bred attack was made in the House of Commons some years ago upon the selection of M. Challemel-Lacour as ambassador of the French Republic in London. It led to a long and acrimonious discussion, in the course of which M. Challemel-Lacour was entirely forgotten. But if M. Challemel-Lacour had been obnoxious to the Queen, or to Mr. Gladstone, or to Lord Granville, instead of to Mr. O'Donnell, his nomination could not have been made, or must have been afterwards canceled.

The suggestion that Mr. Phelps should be treated in the same manner as Lord Sackville is theoretically illogical and practically foolish. It probably results as much from sheer ignorance as from any less respectable quality of the human mind. When nations have determined to fight the departure of one minister is naturally the signal for the departure of the other. A total cessation of diplomatic intercourse is independent of persons, and the motives which apply to the conduct of one belligerent must also direct the proceedings of the other. But because Lord Sackville has given offense at Washington it scarcely follows that Mr. Phelps has made himself intolerable in London. Mr. Phelps has not, so far at least as the public are aware, written to advise a naturalized American of whom he never heard before to vote for a Tory candidate at the next general election, because the Tories were more likely than the Liberals to cultivate a good understanding with America. Nothing could have made Lord Sackville's singular indiscretion more than a personal matter except Lord Salisbury's strange inability to appreciate the necessity of speedy action. The wiseacres assure us, with their curious knack of imparting an element of falsehood into the merest platitude, that President Cleveland has yielded to electioneering necessities. Lord Sackville could scarcely have advised even an imaginary person how to vote if there had been no election for him to vote in; and so far we must all bow to the oracle. Let us suppose, however, as a help towards clearing our minds of cant, that the President had taken the serenely dignified course of doing nothing. What would have been the result of his masterly inactivity, his statesmanlike reserve? It would have been said by many, and believed by some, that he was intriguing with the British Government to influence the votes of American citizens. If that were all, it might plausibly be urged that he should have despised such an absurd imputation. But that is not all. Every one might have said, for no one could have denied, that the Democratic candidate for the Presidency, who happens to be also President, had silently accepted the support of Her Majesty's representative at Washington, and had allowed it to be tacitly inferred that his famous message of retaliation to Canada was not sincere. If, for this or other reasons, Mr. Cleveland had been unsuccessful in the Presidential contest, General Harrison would probably have taken the first opportunity of intimating that Lord Sackville's room was preferred to his company.

But while we very much regret the stupid attacks which have been made upon Mr. Cleveland, it would be affectation to pretend that American politics are not totally deranged once in every four years. The large, easy tolerance which is even more

characteristic of Americans than the exceptional smartness attributed to them, would certainly not, in ordinary circumstances, either demand or approve such a note as Mr. Bayard has addressed to Lord Sackville. The late General Sheridan's motto, "Let everything go in," is remembered at Washington on the eve of the great struggle, when other more important principles are forgotten. The Irish vote is an important element on such occasions, but the Irish vote is not everything. Lord Sackville will have done some good, as well as much mischief, if he reminds enthusiasts that the American Constitution is not perfect. To the ignorant contempt for that "leviathan," as Hobbes would call it, which formerly prevailed among English Tories has succeeded an equally ignorant admiration. The political heirs of the men who regarded Lincoln as a kind of Elijah Pogram, and were confident that the Yankees would be licked by the gentlemen of the South, now turn fondly to America as a country where Irish members would be shot out of hand. Mr. Balfour has deduced from his profound study of comparative politics the lesson that the United States are the most conservative community in the world; and it is of course true that slavery, which was abolished there more than twenty years ago, can only be abolished once. The magnitude of that revolution, which English conservatism intensely abhorred, has dwarfed all subsequent changes. The election for the American Presidency is not an admirable performance. It is entirely different from what it professes to be, for the electors who are supposed to choose the President are of course merely dummies, pledged to vote for a particular candidate. The choice by an English dean and chapter of a bishop already chosen by the prime ministers is not a more ludicrous farce than the second part of the double process invented as a check upon democracy by the founders of the American Republic. We hear much vague abuse of American politicians. But the misfortune of America is that her citizens are not political enough. When the mass of a people abandon politics to those who make of it a profession or a game, the result may not be jobbery or corruption, which are far less common in the United States than hasty book-makers have asserted; but it is certain to destroy the moral perspective of public men, so that such trifles as the temporary aberration of a respectable diplomatist are enough to convulse half a continent.

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## No. 11.

### *Mr. Phelps to Mr. Bayard.*

No. 845.] LEGATION OF THE UNITED STATES,
*London, November* 7, 1888. (Received November 19.)

SIR: I have the honor to inform you that Her Majesty's Government gave to the press last evening the correspondence in respect to Lord Sackville, which will probably be laid before Parliament to-day. I inclose herewith copies of it, and also leading articles on the subject from the Times, Standard, Telegraph, and Daily News, London papers of this morning.

As soon as the members of Her Majesty's Government express themselves in Parliament on the subject, I shall send you an account of what is said and my views in regard to it. Meanwhile I respectfully suggest that until we are fully informed of the proposed action of Her Majesty's Government, no publication of correspondence should be made by the United States Government.

I send you this morning a cable dispatch of which I inclose a translation.

I have, etc.,

E. J. PHELPS.

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[Inclosure 1 in No. 845.—Telegram.]

*Mr. Phelps to Mr Bayard.*

LEGATION OF THE UNITED STATES,
*London, November* 7, 1888.

Mr. Phelps states that the Sackville correspondence was published in England on the preceding day and suggests the withholdment of publication by the United States for the present moment.

[Inclosure 2 in No 845.—Extract from the London Times, Wednesday, November 7, 1888.]

LORD SACKVILLE'S RECALL.

The following correspondence respecting the demand of the United States Government for the recall of Lord Sackville from Washington was issued yesterday:

*The Marquis of Salisbury to Lord Sackville.*

FOREIGN OFFICE, *October* 27.

MY LORD: Mr. Phelps, who is staying in my house, informed me in the course of this evening that he had received a telegram from Mr. Secretary Bayard respecting the correspondence which has been creating so much excitement in the United States, and instructing him to request Her Majesty's Government that you should be recalled. He did not base his request on the letter which you had written to a resident in California, but on some expressions used subsequently in two interviews with a newspaper reporter, which, in the opinion of the United States Government, imputed discreditable motives to the President and the Senate.

I replied that I was glad to find there was no truth in the rumor that any diplomatic representation was to be made in regard to your private letter, which had become public only by a betrayal of confidence. It was, I said, hardly practicable to lay down the principle that a diplomatic representative was prohibited from expressing, even privately, any opinion on the events passing in the country to which he was accredited.

With respect to the language imputed to you in the interviews with newspaper reporters the case is different. You must be taken to have intended it for publication. But to recall you on a formal request from the Government of the United States, made under circumstances of considerable publicity, was a course which implied the censure of two Governments, and therefore before acceding to any such request Her Majesty's Government were bound, in justice to you, to satisfy themselves of the objectionable character of the language you had uttered. I accordingly begged Mr. Phelps to be good enough to give me a copy of the expressions imputed to you that I might in the first instance ascertain from you whether you had been accurately reported, and might then bring the matter before my colleagues. Mr. Phelps replied that he had not as yet received any copy of the speeches referred to, but that he would take steps to procure one. It was consequently understood that until such a copy had been received by Her Majesty's Government they could give no answer to the request addressed to them by the Government of the United States.

I am, etc.,

SALISBURY.

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*Lord Sackville to the Marquis of Salisbury.—(Received October* 28.)

[Telegraphic.]

WASHINGTON, *October* 28.

The letter received by me was a political plot of a Republican.

By yesterday's mail I have written to explain the situation arising out of the publication of my private reply.

It will be on account of Presidential election if my recall is demanded.

Beg to express deep regret at what has occurred.

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*Lord Sackville to the Marquis of Salisbury.—(Received October* 31.)

[Telegraphic.]

WASHINGTON, *October* 30.

I have been informed by the Secretary of State that the President, for causes good and sufficient which he says are known to me and have been brought to the cognizance of Her Majesty's Government, has become convinced that the official position which I now hold in the United States is not compatible with the best interests, and is detrimental to the good relations between the two Governments, and that he has therefore sent me my passports.

With regard to the charge of this legation I have to request your lordship's instructions.

*Mr. Phelps to the Marquis of Salisbury.—(Received October 31.)*

LEGATION OF THE UNITED STATES,
*London, October* 31.

MY LORD: I have the honor to acquaint you that I received at a late hour last night instructions from the United States Government to communicate to your lordship that by direction of the President the Secretary of State on yesterday informed Lord Sackville, Her Majesty's minister at Washington, that for reasons heretofore made known to your lordship his continuance in that official position was no longer acceptable and would consequently be detrimental to the relations between the two Governments; and that a passport to facilitate his withdrawal has therefore been issued to Lord Sackville.

And I am further instructed to express the hope of the President that another representative from Her Majesty's Government may be accredited to the Government of the United States.

I have, etc., E. J. PHELPS.

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*Lord Sackville to the Marquis of Salisbury.—(Received October 31.)*

[Telegraphic.]

WASHINGTON, *October* 31.

I beg to repudiate statement of Secretary of State, giving reasons for my dismissal, as an unjust attack on my integrity.

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*The Marquis of Salisbury to Lord Sackville.**

FOREIGN OFFICE, *October* 31.

MY LORD: I have received your telegram of yesterday informing me that you had received your passports from the President of the United States.

I have therefore to request that you will place the honorable Michael Herbert, who is the senior secretary at present on the spot, in charge of Her Majesty's legation.

I am, etc.,

SALISBURY.

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*The Marquis of Salisbury to Mr. Phelps.*

FOREIGN OFFICE, *November* 1.

SIR: I have the honor to acknowledge your letter of yesterday's date, intimating to me that Mr. Bayard had informed Lord Sackville, Her Majesty's minister at Washington, that, for reasons heretofore made known to me, his continuance in that official position was no longer acceptable, and would be consequently detrimental to the relations between the two Governments; and that, in consequence, his passports had been sent to him.

On Saturday last, when I had the honor of an interview with you, you informed me that the Government of the United States desired the recall of Lord Sackville, and you stated that the ground for that application was not the letter to a Californian gentleman, which has been much canvassed in the newspapers, but the language which Lord Sackville had employed to certain reporters who "interviewed" him, and which, in the judgment of your Government, imputed discreditable motives to the President and the Senate of the United States.

I asked you if you could give me a copy of the speech or speeches to which exception was taken, but you had not received them.

I refer to this interview on account of the intimation which, as you informed me, the Secretary of State conveyed to Lord Sackville, that the reasons for which his lordship's continuance in office was no longer acceptable had been heretofore made known to me. Nothing has been made known to me except what you did me the honor to communicate on Saturday evening; and by that communication I was only made acquainted with the interpretation which Mr. Bayard put upon certain speeches made by Lord Sackville. What those speeches contained or to whom they were made were circumstances not included in your communication, and indeed were, as I gathered, not known to yourself. I have not since received any further information on these points; and, therefore, I am unable to form any judgment upon the considerations which dictated the request which I received from the United State Government on Saturday, or the action which they took on Tuesday.

I have, etc.,

SALISBURY.

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* Substance sent by telegraph.

[illegible]

[illegible]

[illegible]

the contents of which could only be made public by a betrayal of confidence, and a conversation which must be taken to be intended for publication. As to the latter, he added that, before concurring in the censure passed upon Lord Sackville by the United States Government and consenting to recall him, Her Majesty's Government felt bound, in justice to Lord Sackville, to satisfy themselves of the objectionable character of the language uttered by him. As Mr. Phelps was not able to supply the foreign secretary with a copy of the expressions complained of, it was understood that until they received such a copy Her Majesty's Government could give no answer to the request addressed to them. The sequel we know already. Lord Sackville was summarily and unceremoniously dismissed by the Government of President Cleveland, when, as the correspondence shows, only half their complaint against him had been brought to the knowledge of the British Government, and that not the more important half. Had the Government of the United States desired to be courteous they might have used the telegraph for the purpose of placing Mr. Phelps in possession of all the information necessary to his case. Whether it was necessary for them to hold the card of summary dismissal in reserve for the purpose of trumping their adversaries' trick is a question which need not now be too curiously discussed. The "Sackville incident" has, we are told, already been almost forgotten in the United States, each party having apparently played its cards so skillfully and with so little regard to international courtesy that neither is thought to have made much by the game. The only other matter illustrated by the correspondence is the undoubted indiscretion of Lord Sackville, which, as we acknowledged from the first, was calculated to render his continuance at Washington undesirable. It is pretty clear that this would have been Lord Salisbury's own conclusion after he had had time and opportunity to consider the matter in all its bearings, if he had not been relieved of all further responsibility by the electioneering emergency which compelled the Government of the United States to terminate the incident by putting themselves in the wrong.

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[Inclosure 4 in No. 845.—Extract from The London Daily News, Wednesday, November 7, 1888.]

THE SACKVILLE PAPERS.

The correspondence respecting the demand for Lord Sackville's recall which was laid before Parliament yesterday places the precedent in a somewhat different light from that in which it has hitherto been regarded. Lord Salisbury's first dispatch to Lord Sackville, dated the 27th of October, explains very clearly that the American Government did not demand the British minister's recall on account of a private letter improperly published, but because he had in an interview with some representatives of the press "imputed discreditable motives to the President and the Senate." This explanation considerably improves the position of Mr. Cleveland and Mr. Bayard, for it shows that Lord Sackville would not have been molested if he had not followed up an indiscreet letter by an unwarrantable speech. Lord Salisbury observes with much plausibility that it is "hardly practicable to lay down the principle that a diplomatic representative was prohibited from expressing even privately any opinion on the events passing in the country to which he is accredited." But there are private letters, and private letters, and Lord Sackville in this correspondence candidly admits his error, which, as we have seen, he supplemented by another. Lord Salisbury justifies his refusal to act promptly upon the communication made to him through Mr. Phelps by the plea that he had not seen, any more than Mr. Phelps himself, an authentic report of the language attributed to Lord Sackville. He could not, he said, take a step which involved "the censure of two Governments" without proper evidence and without giving the incriminated party an opportunity to reply. We sympathize with Lord Salisbury's anxiety to protect a subordinate, and every one must admit that the general principle he lays down is right and just. The haste with which the President acted is only to be excused by the necessity of removing from the great national contest which was decided yesterday an irrelevant and objectionable element. Lord Salisbury's error lay in not perceiving that the recall of Lord Sackville in such peculiar circumstances involved no personal discredit, and that an envoy ceases to be useful the moment he ceases to be acceptable.

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[Inclosure 5 in No. 845.—Extract from the London Standard, November 7.]

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It was generally expected that Lord Salisbury would be pressed to make some statement concerning what Lord Granville properly called the "painful incident" of the dismissal of Lord Sackville from Washington. But the leader of the opposition in

the Upper House was unusually forbearing, and the prime minister availed himself of the alternative left him by Lord Granville, and postponed making any observations on the subject until after the publication of the official correspondence. We print this correspondence in another column. It might have been thought impossible to exhibit American diplomacy in a worse light than was thrown upon it by the information supplied to the public by the State Department. But while the documents now published add a fresh touch of absurdity to the behavior of Mr. Bayard, they will be valued by Englishmen, because they show that Lord Salisbury has throughout acted with dignity and discretion. The last extenuation that could be pleaded for Mr. Cleveland disappears, the British foreign office being acquitted, once for all, of the suspicion that it was responsible, in any degree, for the discreditable episode. On Saturday week Mr. Phelps made his first representation on behalf of his Government, requesting that Lord Sackville should be recalled. The application was based, not on the private and confidential letter, but on some expressions used subsequently by the British embassador, in an interview with a newspaper reporter. These remarks, in the opinion of the Washington Government, imputed discreditable motives to the President and the Senate. It will not be denied, we suppose, that Lord Salisbury was justified in asking for a copy of the offensive expressions imputed to Lord Sackville, before taking a course which, as he justly observes, implied the censure of two Governments. Mr. Phelps, however, was not able to supply the required text, for the sufficient reason that he had not himself received a copy of the "speeches referred to." Apparently, the representative of the United States was imperfectly informed of the character of the Government whom he represents in London, for he did just what any right-minded embassador would do—that is to say, he agreed to procure the necessary details, it being, of course, understood that until Lord Salisbury had had a chance of seeing what Lord Sackville had really said he could not possibly decide whether there was a case for recalling him. Mr. Bayard, however, was in far too great a hurry with his electioneering *coup* to observe the ordinary decencies of international intercourse. Enough has been said already about the unparalleled rudeness of his message to Lord Sackville, but the papers show that he outraged truth as well as courtesy in his communication. The "good and sufficient causes" which rendered Lord Sackville's official position detrimental to the maintenance of friendly relations had been—Mr. Bayard stated—brought to the cognizance of the British Government, "without result." As a matter of fact, the cause mainly relied on was only indicated in general terms. It is trifling with sense to pretend that the impression which certain remarks left on the mind of Mr. Cleveland should be accepted by Lord Salisbury as a substitute for the remarks themselves. Nor is it further from the mark to complain of the fruitlessness of the representations made. Lord Salisbury did all that any self-respecting minister of a great power could, under the circumstances, have done. The question of future measures remains yet for consideration; but it is satisfactory to know that Mr. Bayard monopolizes the whole responsibility for the disgraceful incident of Lord Sackville's dismissal.

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**[Inclosure 6 in No. 845.—Extract from the London Daily Telegraph, November 7.]**

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Another matter of national interest was touched upon for a moment during the brief sitting of the Upper House, when Lord Granville's qualified request for a ministerial statement with reference to the Sackville incident was met by Lord Salisbury with an intimation that papers on the subject would be placed almost immediately in the hands of the members. These papers have now been presented, but they prove on examination, to carry the matter no further than the point to which the public have been able to follow its progress by means of unofficial information. The story closes—for the present, that is to say—with Lord Sackville's abrupt dismissal by the Washington Government, and the *ad interim* appointment by Lord Salisbury of a subordinate official of the British legation to discharg e the duties of the vacated post. What communication it is proposed to make to Mr. Bayard with reference to the summary step just taken by him we have yet to learn. Upon a review of that which has already passed we can form only a provisional judgment of the proceedings of the respective parties to what Lord Granville has justly called this "painful incident." It has been suggested by the American defenders of the extremely prompt action of their Government that it was justified by Lord Salisbury's "delay" in promising satisfaction for the British minister's escapade; and the dates of the correspondence undoubtedly show that what an American Government, in the flurry of a Presidential contest, may perhaps have regarded as "delay" did occur. In other words, while Lord Salisbury took instant notice of the complaint made to him by Mr. Phelps, by addressing a dispatch to Lord Sackville to inform him that the foreign office was awaiting accurate details of his imputed transgressions, it does not appear that the

prime minister made any attempt in the meantime to soothe the ruffled susceptibilities of President Cleveland through the medium of the Atlantic cable. His letter to the British minister was dated October 27, the same day on which he had received Mr. Phelps's representations; and he apparently thought—so deliberately does British diplomacy move—that, in these days of fairly expeditious ocean transits, the Washington Government would be content to await a reply to their remonstrances by mail. He was to learn, however, that he had estimated the patience of that Government at more than 100 per cent. above its actual amount. To rest for longer than three days under the imputation of enjoying English patronage is evidently more than can be expected of a candidate for the Presidency of the United States; and accordingly on the 30th of October Lord Sackville received his passports. It was, in the parlance of the hunting-field, a "quick thing;" and a slow-going "Britisher" may be excused for finding the pace too good for him. Indeed, it is to be feared that our diplomacy will never learn to keep up with it; and we are not quite sure that the public of this country would think any better of that diplomacy if it contrived to do so. Celerity at the expense of courtesy is not altogether to be admired.

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[Inclosure 7 in No. 845.—Extract from the London Times, Wednesday, November 7.]

PARLIAMENT, HOUSE OF LORDS,
*Tuesday, November* 6.

Their lordships re-assembled to-day for the first time after the adjournment of Parliament on Monday, the 13th of August. About forty peers were present.

The Lord Chancellor took his seat upon the woolsack at 20 minutes past 4 o'clock.

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LORD SACKVILLE.

Earl GRANVILLE. The other question I desire to ask the noble marquis is this, whether he is prepared to make any statement to the House or lay any papers on the table in regard to the painful incident in relation to our minister in the United States. I should be glad if he could answer either by making a statement or promising papers, but I do not press either course unless he thinks it convenient to do so.

The Marquis of SALISBURY. I think I should prefer to take advantage of the choice which the noble earl has given me, and avoid making any observations on that subject, merely saying that papers are now in the printers' hands, and I believe they will be in the hands of noble lords to-morrow morning; and, of course, if noble lords should then think fit to raise any discussion we shall be perfectly ready to join in it.

The House rose at five minutes to 5 o'clock.

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## No. 12.

### *Mr. Bayard to Mr. Phelps.*

DEPARTMENT OF STATE,
*Washington, November* 20, 1888.

SIR: Since my communication to you of the 31st ultimo, I have had the honor to receive your No. 842 of November 2, and No. 845 of the 7th instant.

By this mail I send you marked copies of certain newspapers* containing reports of Lord Sackville's statements to the representatives of the press, and the New York Tribune of the 4th instant, containing a fac-simile of Lord Sackville's letter addressed to Charles F. Murchison.

All of Lord Sackville's interviews on the subject referred to appear to have been held in this city, and were telegraphed hence to points throughout the United States.

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* For these papers see *infra*, inclosures in No. 14.

The number of reporters to whom his lordship made these statements I can not precisely state, because each correspondent represents usually several different newspapers, and the same or similar reports were telegraphed simultaneously to many different points.

But I have already (on the 31st ultimo) transmitted to you newspaper cuttings containing these interviews, and their reduplication would be unnecessary.

No contradiction or retraction of any of these alleged statements has yet appeared from Lord Sackville.

The widespread publication of these "interviews" by the newspaper press of the United States can most conveniently be proven by reference to the files of American newspapers in London.

I am, etc.,

T. F. BAYARD.

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No. 13.

*Mr. Phelps to Mr. Bayard.*

No. 858.] LEGATION OF THE UNITED STATES,
*London, December* 1, 1888. (Received December 11.)

SIR: I have the honor to inclose herewith for your information an extract from the Times newspaper of 27th ultimo, containing a question asked by Mr. Gourley in the House of Commons and answered by Sir James Fergusson, under secretary of state for foreign affairs, with respect to the appointment of a new minister to the United States.

I also inclose a leader from the Daily News on the subject.

I have, etc.,

E. J. PHELPS.

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[Inclosure 1 in No. 858.—Extract from the London Times, Tuesday, November 27, 1888.]

A NEW MINISTER AT WASHINGTON.

Mr. Gourley asked the first lord of the treasury whether Her Majesty's Government intended appointing a new minister to the Government of the United States at Washington on the departure of Lord Sackville, or not until the President-elect entered upon the duties of his office.

Mr. W. H. Smith. The Government are unable at present to make any statement as to the appointment of a new minister to the United States.

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[Inclosure 2 in No. 858.—Editorial from the London Daily News, Tuesday, November 27, 1888.]

LONDON AND WASHINGTON.

The first lord of the treasury informed Mr. Gourley, in the House of Commons yesterday, that her Majesty's Government did not intend to take any step at present towards filling up the vacant post of British minister at Washington. Lord Salisbury's determination is much to be regretted, and we venture to hope that suitable pressure may induce him to reconsider it. Lord Sackville, now on his way home, was guilty of an unpardonable indiscretion. The letter might have been forgiven. But the subsequent interview went beyond all bounds, and would have been tolerated by no European Government. Lord Sackville, though he probably meant no harm, behaved in a manner which would have excited the keenest resentment in this country against any American minister so conducting himself. His recall was a matter of course, and ought not to have been resented. National dignity, as well as common sense, forbids the exhibition of a childish sulkiness, although the Conservatives who

cheered Mr. Smith's answer seemed to be of a different opinion. Lord Salisbury may provoke President Cleveland to withdraw Mr. Phelps from London, and may suggest to vigilant economists that England could contrive to get on without any representative at Washington at all. But we fail to see what other object he proposes to himself by the unusual course he has seen fit to adopt. He can not put Lord Sackville in the right, because Lord Sackville is hopelessly in the wrong. He can not wish to make himself responsible for an inexcusable blunder, and then annoy the American people. He can not wish to curry favor with General Harrison by insulting the general's predecessor and unsuccessful rival. Yet, unless he is waiting for the opportunity of a job, these suggestions seem to exhaust the possibilities of accounting for a most unwise and unfortunate delay in doing the right thing.

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## No. 14.

### *Mr. Phelps to Mr. Bayard.*

[Extract.]

No. 861.] LEGATION OF THE UNITED STATES,
*London, December* 5, 1888. (Received December 17.)

SIR: I inclose herewith copy of a note which I addressed yesterday to Lord Salisbury concerning the action of the President in respect to Lord Sackville, and transmitting certain papers thereto related.

I have, etc.,

E. J. PHELPS.

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[Inclosure in No. 861.]

### *Mr. Phelps to the Marquis of Salisbury.*

LEGATION OF THE UNITED STATES,
*London, December* 4, 1888.

MY LORD: In accordance with your lordship's request, I have the honor to transmit herewith certain papers having relation to the recent action of the President of the United States in respect to Lord Sackville, Her Majesty's late minister at Washington. I much regret that accidents not within my control have so long delayed them.

They are copies of a correspondence between Lord Sackville and a person signing himself "Murchison," bearing date the 4th and 13th September last; a copy of an article in the New York Times newspaper, referred to by Lord Sackville in that correspondence; the report of an interview between Lord Sackville and a reporter of the New York Tribune newspaper on the 23d October, published in that paper on the 24th; the report of an interview between Lord Sackville and a reporter of the New York Herald newspaper on the 24th October, published in that paper on the 26th; and an enlarged fac-simile of Lord Sackville's letter to "Murchison," above mentioned, published in the New York Tribune of the 4th November.

All these publications were very widely copied and circulated throughout every part of the United States between the 23d October and the 6th November last; and various other interviews between Lord Sackville and the reporters of newspapers of similar import with the one contained in the Tribune were likewise widely published and circulated.

It will not fail to be observed by your lordship that the letter addressed to Lord Sackville by "Murchison" contains very grave insinuations against the integrity of the motives of the President of the United States in his action upon important questions of foreign policy. These insinuations do not appear to have been regarded by Lord Sackville as a sufficient reason for declining to answer the letter, nor did they encounter any rebuke or dissent in his reply. That the reply was marked "private" only to distinguish it from official correspondence, and was really intended to be made public, is apparent, as well because that was the professed and only object of the "Murchison" letter as from the statement of Lord Sackville himself in the interview with the reporter of the New York Herald; and in the interview with the reporter of the Tribune, which was, of course, understood to be for publication, the imputation of discreditable motives, not only to the President, but to the Senate of the United

States, is distinctly made by Lord Sackville. No contradiction or explanation by Lord Sackville of the statements imputed to him in these interviews has ever been published.

Both the correspondence and the Tribune interview appeared to the Government of the United States to constitute a very grave and unprovoked affront by Lord Sackville to the President and the Senate.

Perhaps further comment upon these incidents is unnecessary, as it is certainly unpleasant; but it is difficult to understand their significance without reference to the circumstances under which they took place.

The Presidential election in the United States occurred on the 6th November, and was preceded by an earnest and excited canvass. The number of British subjects of Irish descent who have sought and obtained naturalization in the United States under the existing very liberal laws on that subject is sufficiently large to exercise at the decisive points a very considerable influence upon the result of such an election. A strong appeal had been made throughout the discussions which preceded the election to the prejudices of this body of citizens against the Government of Great Britain. And the President had been persistently charged with being the especial friend of that Government, and with having been controlled in his foreign and domestic policy by British influence. That these charges were without foundation was not enough to prevent them from having serious effect in the quarter to which they were addressed, and becoming one of the leading topics in the canvass. It was in this state of affairs that the "Murchison" letter was addressed to Lord Sackville. That it was intended to draw out from him a reply that could be used against the administration in the election, becomes very apparent upon perusal of it. The answer of Lord Sackville, as might have been expected, was immediately circulated throughout the United States, in large type and in fac-simile. I can not encumber this note with extracts from numberless speeches and newspapers, to show the use that was made of it or the construction that was put upon it. They are easily accessible. If it did not influence many voters of a certain class, it was not for the want of most persistent efforts to that end.

An interference in the political discussions of the United States that, under other circumstances, might, however erroneous, have been of less consequence, became at the time it took place, and under existing circumstances, of very serious and mischievous consequence; and, as it appeared to the Government of the United States, should have been avoided with even unusual care and circumspection.

In asking from Her Majesty's Government the recall or withdrawal of its minister, upon a representation of the general purport of the letter and statements above mentioned, the Government of the United States assumed that such request would be sufficient for that purpose, whatever consideration the reasons for it might afterwards demand or receive.

It was believed that the acceptance or retention of a minister was a question solely to be determined, either with or without the assignment of reasons, by the Government to which he was accredited; and the Government of the United States was not therefore prepared for your lordship's intimation, that particulars of the language complained of should be furnished, and that the action of Her Majesty's Government in respect to withdrawing the minister would await the reception of it, and the hearing accorded to the minister in regard to it.

I need hardly assure your lordship that it is from no feeling of unkindness to Lord Sackville, whose previous intercourse with the Government of the United States had been acceptable, that I am instructed to bring these facts to the attention of Her Majesty's Government. The Government of the United States deeply regrets the occurrence that, in its judgment, rendered necessary the termination of Lord Sackville's official residence at Washington, as it must always regret any incident that might impair in the slightest degree the most friendly relations that exist between the two Governments.

I have, etc.,

E. J. PHELPS.

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[Inclosure 1 in Mr. Phelps' note of December 4, 1888, to Lord Salisbury.—Mr. Murchison to Lord Sackville, September 4, 1888.]

(Printed *supra*, A.)

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[Inclosure 2 in Mr. Phelps' note of December 4, 1888, to Lord Salisbury.—Lord Sackville to Mr. Murchison, September 13, 1888.]

(Printed *supra*, B.)

[Inclosure 3 in Mr. Phelps' note of December 4, 1888, to Lord Salisbury.—Extracts from the New York Daily Tribune of October 24, 1888.]

(Printed *supra*, inclosure in No. 9.)

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[Inclosure 4 in Mr. Phelps' note of December 4, 1888, to Lord Salisbury.—Extract from the New York Herald of October 24, 1888.]

*Lord Sackville's letter.—Her British Majesty's Minister acknowledges his written views of the administration.—No impropriety in it.—He says he wrote in his private character to a correspondent he considered reputable.*

[From our regular correspondent.]

HERALD BUREAU, CORNER FIFTEENTH AND G STREETS, NW.,
*Washington, October* 23, 1888.

Sir Lionel Sackville West, the British minister, while at his summer home at Beverly, Mass., received by mail on the 12th September a letter from a resident of Pomona, Cal., to which he sent the following reply, written on the 13th September.

[Private.]

"SIR: I am in receipt of your letter of the 4th instant, and beg to say that I fully appreciate the difficulty in which you find yourself in casting your vote. You are probably aware that any political party which openly favored the mother country at the present moment would lose popularity, and that the party in power is fully aware of this fact. The party, however, is, I believe, still desirous of maintaining friendly relations with Great Britain, and is still as desirous of settling all questions with Canada which have been unfortunately re-opened since the retraction of the treaty by the Republican majority in the Senate and by the President's message, to which you allude. All allowances must, therefore, be made for the political situation as regards the Presidential election thus created. It is, however, impossible to predict the course which President Cleveland may pursue in the matter of retaliation should he be elected, but there is every reason to believe that, while upholding the position he has taken, he will manifest a spirit of conciliation in dealing with the question involved in his message. I inclose an article from the New York Times of the 22d of August, and remain, yours, faithfully,

"L. S. SACKVILLE WEST.

"BEVERLY, MASS., *September* 13, 1888."

Its publication in the New York papers did not attract attention of officials and others until to-day, when the question was naturally raised as to whether it was a genuine letter, and whether it called for action on the part of the administration.

IT IS GENUINE.

The bell-pull at the office of the British legation has not been so busy for many a day as it was this morning. Inquiries were made from every part of the country through correspondents as to whether the letter was written by Lord Sackville. To all inquiries the reply was made briefly and without evasion that the British minister did write the letter, and had no apology or explanation to offer for doing so.

It was a personal letter, not intended for publication, and therefore he would not discuss it.

In the absence of Secretary Bayard there was no one at the State Department who would give expression as to what was thought of the tenor of the letter, or whether it called for action on the part of the administration. Some of the officials thought it very indiscreet on Minister West's part to confide in writing his opinion about political matters to anybody.

At the White House the genuineness of the letter was questioned, but in the absence of the Secretary of State there was no one who had any opinion to give even if the letter was written by the British minister. Mr. Bayard has been absent for two weeks on his vacation, and is expected here the latter part of the week.

IT WILL NOT PASS UNNOTICED.

From an official source, however, I learned that the action of the British minister will not pass unnoticed.

The policy of our Government in sending representatives to foreign countries is to prohibit their taking part in any way in the political concerns of the country to which they are accredited. They are instructed that "it is forbidden to diplomatic agents abroad to participate in any manner in the political concerns of the country of their residence, and they are directed especially to refrain from public expression of opinion upon local, political, or other questions arising within their jurisdiction. The plain duty of the diplomatic agents of the United States is scrupulously to abstain from interfering in the domestic politics of the countries where they reside. This duty is especially incumbent on those who are accredited to Governments mutable in form and in the persons by whom they are administered. By taking any open part in the domestic affairs of such a foreign country they must, sooner or later, render themselves obnoxious to the executive authority, which can not fail to impair their usefulness."

The State Department, as far as possible, impresses upon all foreign ministers accredited to the United States the propriety of following the explicit instructions given our own diplomatic agents abroad. It is very seldom that a minister resident in Washington will give an opinion on any political question, and never for publication.

### A POLITICAL TRICK.

In the present instance, it is the opinion of those who have carefully read Minister West's letter that the writer of the letter, to which his is a reply, was instigated by political motives in trying to draw him into saying something that could be used in the Presidential campaign to the injury of the Democratic party.

I went this evening to the British legation for the purpose of receiving the explanation that Lord Sackville had expressed himself willing to make to the Herald of the circumstances under which he had written the letter.

An English-born citizen of California had sought from him an approval of his expressed desire to vote for the re-election of President Cleveland.

The minister first confirmed the accuracy of the copy of his letter that I had taken to him for verification, and then producing from his cabinet the original of the letter addressed to him by his unknown correspondent at Pomona, Cal., asked me to read it and tell him, if I could, what reasonable objection had been or could be raised to his answering it, or to the matter and quality of his answer.

I informed Lord Sackville that certain gentlemen, prominent in the Republican party, deemed his letter of sufficient importance to their cause to make use of it for the purpose of creating a prejudice against the candidacy of Mr. Cleveland in the closing weeks of the campaign, and that those who took that view and made that use of the letter considered that its publication had put him so far on the defensive as to require him to justify or excuse the writing of the letter.

### HIS POINT OF VIEW.

Lord Sackville declined to accept that view, or to say anything to placate, help, or hinder any partisan interest connected with the pending contest for the Presidency, adding that he did not write letters, nor refrain from writing them, out of regard to political exigencies within the United States, which were matters that in no way concerned him otherwise than as a friendly and impartial spectator, but solely with reference to what was courteous and proper between himself and those that saw fit to honor him with their communications. He was aware that the native ingenuity of the American people was apt to come out strongly at the time of their national elections, and he thought the enthusiasm and enterprise that they threw into such struggles were indications of a sound political constitution, but he would like to know how any of the present contestants are to gain an advantage from the publication of his letter, which contained nothing but statements of well known and indisputable facts.

He had stated "that any political party which openly favored the mother country at the present moment would lose popularity." Does anybody dispute this attribution of fervid patriotism to the American people? He had added that "the party in power is fully aware of this fact." He reads all the leading journals, and knows whereof he speaks on this point.

He had expressed the belief that the party in power was "desirous of maintaining friendly relations with Great Britain," and still as desirous of settling all questions with Canada, and he might say the same of all parties in the United States upon the authority of all the recognized party leaders and organs. His knowledge that the Republican majority in the Senate had rejected the fisheries treaty was derived from the official report of the proceedings of the Senate, published by order of that chamber itself.

THE MINISTER NO PROPHET.

He had written that it was "impossible to predict the course which President Cleveland may pursue in the matter of retaliation should he be elected," and if anybody can make any authoritative prediction on that point in advance of the situation or circumstances requiring the President to act, the person so enabled is in possession of a valuable piece of information which it is impossible he should long keep to himself. He had told his correspondent that "there is every reason to believe that while upholding the position he has taken, he (the President) will manifest a spirit of conciliation in dealing with the question involved in his message" (meaning the so-called retaliation message). His authority for that expression of belief is to be found in the American press at large, and he (the minister) can not conceive how he could have justified his words to himself, or have escaped the just censure of the people of this country at large, had he presumed to tell anybody that the President would not uphold any position he has taken on a grave question, or that he would approach such a question in any other than a becoming spirit.

The letter of his correspondent, while professing to see in the past conduct of President Cleveland much to commend him to the suffrages of an elector holding the views and opinions set out in the letter, expressed a fear that partisan exigency might lead the President, in case of his re-election, to do certain things that the writer could not approve, and inasmuch as Lord Sackville was not in possession of a commission to tell anybody, or even to learn for himself whether the Pesident would or would not do the things reprobated by his correspondent, he deemed it proper and sufficient to remind the latter that "allowances must, therefore, be made for the political situation" in estimating the meaning and value of the rhetoric of campaign editors and orators.

The minister does not understand that popular leaders in America, any more than elsewhere, are in the habit or are willing to be held strictly to an account or performance of all they may happen to say in the heat of a political canvass, and hence his soothing reminder to his anxious correspondent.

POSSIBLY ENTRAPPED.

The letter to Lord Sackville, which elicited his much discussed reply, covers four closely written pages of note-paper, and I could not refrain from imparting to the minister my suspicion, based upon the matter and form of the letter, that it was a fraudulent and deceptive communication intended to entrap him into some unguarded expression that could be turned to the disadvantage of one of the candidates for the Presidency. It had not occurred to him that there could be any such purpose in the letter, but he admitted the plausibility of the suggestion, though he declined to take it into serious consideration in the absence of any proof that his correspondent was other than the sincere and conscientious person he held himself out to be in his letter. He declined to permit me to take the letter for publication unless and until the consent of the writer can be obtained.

IN HIS PRIVATE CHARACTER.

The inscription of the word "private" upon Lord Sackville's letter was explained by him to be the ordinary mode of distinguishing letters written in his personal character from those written or signed by him on the business of the legation.

He would cheerfully have given his consent to the publication of the letter if the formality of asking his consent had occurred to those concerned in its publication. He understood, from what was said in the letter to which he was replying, that his answer would be shown to other people than the recipient of it. Consequently, it was advised that he use the term "private" to distinguish the letter from those that he had occasion to write on the public business of his office.

The suggestion that a foreign ambassador should not write unofficial letters on the domestic politics of the country to which he is accredited was dismissed by Lord Sackville in a summary fashion. It happens constantly, he says, in his intercourse with people, that statements are made to him, and information, opinion, and advice asked of him touching matters beyond his sphere and duty as a diplomatic agent of Her Majesty, and in all such instances he acts as any rational and considerate person would. What he would say in a personal interview he would, of course, not hesitate to write to an absent informant or inquirer, and he wrote to the gentleman at Pomona substantially what he should have told him at Beverly had he been called upon there.

In thanking Lord Sackville for his patience and courtesy, I told him that because of the supposed interests of one of our political parties he would probably be severely attacked in the papers for a few days on account of his letter. He replied, laughingly: "Indeed! Well, let them come on. I read all the papers, you know, and I shall enjoy it greatly, I assure you."

No. 15.

*Mr. Phelps to Mr. Bayard.*

No. 874.] LEGATION OF THE UNITED STATES,
*London, December* 29, 1888. (Received January 10.)

SIR: I have the honor to inclose a copy of a note received from Lord Salisbury on the 27th instant, relative to the case of Lord Sackville. I have acknowledged the reception of it, and said that I had transmitted it to my Government for its consideration. This leaves it open to such reply as you may deem it advisable to make.

It will be observed that in my note to Lord Salisbury of the 4th instant, to which his note is an answer, I merely stated the view that I conceive to be the correct one, in respect to the obligation of a Governmont to withdraw its minister at the request of the Government to which he is accredited, without attempting to support it by argument or citation, or expressing any anticipation that it would be thought open to question.

I inclose a copy of a telegram sent you this morning.

I have, etc.,

E. J. PHELPS.

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[Inclosure 1 in No. 874.]

*The Marquis of Salisbury to Mr. Phelps.*

FOREIGN OFFICE, *December* 24, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, inclosing the reported conversations upon which, on the 27th October last, you principally based the request preferred by the President of the United States that Lord Sackville, Her Majesty's minister at Washington, should be recalled. That letter, with its inclosures, has been referred to Lord Sackville, and I have now the honor to transmit to you a copy of his reply so far as it relates to them.

The request in answer to which you have been good enough to forward these papers was made in order that Her Majesty's Government might be enabled to form a judgment on the complaint against Lord Sackville which was based upon them. But it has ceased to be of any practical importance, inasmuch as on the following Tuesday morning, the 30th October, the President of the United States terminated all diplomatic intercourse with Lord Sackville and forwarded his passports to him.

In your letter under reply you explain the course thus pursued by observing:

"In asking from Her Majesty's Government the recall or withdrawal of its minister, upon a representation of the general purport of the letter and statements above mentioned, the Government of the United States assumed that such request would be sufficient for that purpose, whatever consideration the reasons for it might afterwards demand or receive.

"It was believed that the acceptance or retention of a minister was a question solely to be determined, either with or without the assignment of reasons, by the Government to which he was accredited."

The general principles admitted by the practice of nations upon this matter are of more importance than the particular case in reference to which the above doctrine is laid down. Her Majesty's Government are unable to assent to the view of international usage which you have here laid down. It is, of course, open to any government, on its own responsibility, suddenly to terminate its diplomatic relations with any other state, or with any particular minister of any other state. But it has no claim to demand that the other state shall make itself the instrument of that proceeding, or concur in it, unless that state is satisfied by reasons, duly produced, of the justice of the grounds on which the demand is made.

The principles which govern international relations on this subject appear to Her Majesty's Government to have been accurately laid down by Lord Palmerston on the occasion of Sir Henry Bulwer's sudden dismissal from the Court of Madrid in 1848:

"The Duke of Sotomayor, in treating of that matter, seems to argue as if every Government was entitled to obtain the recall of any foreign minister whenever, for reasons of its own, it might wish that he should be removed; but this is a doctrine to which I can by no means assent.

"It is quite true, as said by the Duke of Sotomayor, that the law of nations and international usage may permit a Government to make such a demand; but the law of

nations and international usage also entitle the Government to whom such a request may be preferred to decline to comply with it. I do not mean to say that if a foreign Government is able to state to the Government of Her Majesty grave and weighty reasons why the British minister accredited to such Government should be removed, Her Majesty's Government would not feel it to be their duty to take such representations into their serious consideration, and to weigh them with all the attention which they might deserve. But it must rest with the British Government in such a case to determine whether there is or is not any just cause of complaint against the British diplomatic agent, and whether the dignity and interests of Great Britain would be best consulted by withdrawing him, or by maintaining him at his post." (Viscount Palmerston to Señor Isturiz, 12th June, 1848.)

What view Her Majesty's Government would have taken of Lord Sackville's action if the President of the United States had laid before them "grave and weighty reasons" for his removal, it would be superfluous now to consider. Private communications made by an embassador in good faith have never, I believe, before been made the subject of international complaints; and considerable doubt seems to rest upon the precise purport of the more public statements made by Lord Sackville to the newspaper reporters. But these were fair matters for examination and discussion, if any such discussion had been desired. It is sufficient under existing circumstances to say that there was nothing in Lord Sackville's conduct to justify so striking a departure from the circumspect and deliberate procedure by which in such cases it is the usage of friendly states to mark their consideration for each other.

I will abstain from comment upon the considerations, not of an international character, to which you refer as having dictated the action of the President; I will only join with the Government of the United States in expressing my regret that a personal incident of this character should have in any degree qualified the harmony which for a long time past the enduring sympathy of the two nations has impressed upon the mutual relations of their Governments.

I have, etc.,

SALISBURY.

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[Inclosure 2 in No. 874.]

Confidential.] *Lord Sackville to the Marquis of Salisbury.*

LONDON, *December* 13, 1888.

MY LORD: I have the honor to acknowledge the receipt of your lordship's dispatch of the 8th instant, inclosing a copy of a letter from Mr. Phelps explaining the views of the United States Government on the subject of the termination of my mission, and requesting me to furnish your lordship with any observations I may have to make thereon. I have the honor, therefore, to submit to your lordship:

1. That it is manifest that my reply to the Murchison letter, marked "Private," was never intended for publication, and that I never anticipated that it would be published and used for the political purposes described.

2. That the reply in question contained no imputations against the integrity of the President in his action upon important questions of foreign policy.

3. That the assertion that such insinuations had been made by me rests entirely upon the distorted statements of newspaper reporters under the influence of strong political partisanship.

4. That it is these distorted statements which are dwelt upon as the chief cause of my dismissal.

5. That the statement, that no contradiction or explanation of them had ever been published by me, is true, but that all mention of my letter to Mr. Bayard, copy of which was inclosed in my dispatch of the 31st of October, is omitted; and in this connection I beg to refer your lordship to my statement forwarded in Mr. Herbert's dispatch of the 9th November.

6. That any contradiction to statements made by newspaper reporters in the United States through the press could only lead to unseemly and undignified controversy.

7. That Mr. Bayard was, as Secretary of State, in possession of my disclaimer of any intention of impugning the action of the Executive, and that he could have given such publicity to it as he thought fit under the circumstances.

8. That never in my intercourse with Mr. Bayard after the publication of my letter did he give me to understand that the correspondence and the "Tribune" interview was regarded by the Government of the United States as "a grave and unprovoked affront."

9. That, therefore, it was made to assume such a character only in consequence of political exigencies, upon which I may be permitted to say further comment is unnecessary, and would certainly be unpleasant.

I have, etc.,

SACKVILLE.

[Inclosure 3 in No. 874.—Telegram.]

*Mr. Phelps to Mr. Bayard.*

LEGATION OF THE UNITED STATES,
*London, December* 29, 1888.

Mr. Phelps informs Mr. Bayard of the reception of a reply from Lord Salisbury in the Sackville case.

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## No. 16.

### *Mr. Phelps to Mr. Bayard.*

[Extract.]

No. 893.] LEGATION OF THE UNITED STATES,
*London, January* 12, 1889. (Received January 22.)

SIR: Referring to previous correspondence with respect to the dismissal of Lord Sackville, the late British minister at Washington, I have the honor to inclose herewith the official correspondence* on the subject issued by Her Majesty's Government to Parliament, and a copy of an article in this day's Morning Post.

I have, etc.,

E. J. PHELPS.

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[Inclosure 1 in No. 893.]

LORD SACKVILLE AND THE AMERICAN GOVERNMENT.

[From the London Morning Post, Saturday, January 12, 1889.]

Further correspondence respecting the demand of the United States Government for the recall of Lord Sackville was issued yesterday. The facts of the case are already well known, but the principle claimed by the Government of the United States is controverted by the Marquis of Salisbury in his dispatch of the 24th ultimo. He observes that the judgment of Her Majesty's Government on the conduct of Lord Sackville has ceased to be of any importance, as the President has already sent to him his passports, and adds:

"In your letter under reply you explain the course thus pursued by observing: 'In asking from Her Majesty's Government the recall or withdrawal of its minister upon a representation of the general purport of the letter and statements above mentioned, the Government of the United States assumed that such request would be sufficient for that purpose, whatever consideration the reasons for it might afterwards demand or receive. It was believed that the acceptance or retention of a minister was a question solely to be determined either with or without the assignment of reasons by the government to which he was accredited.' The general principles admitted by the practice of nations upon this matter are of more importance than the particular case in reference to which the above doctrine is laid down. Her Majesty's Government are unable to assent to the view of international usage which you have here expressed. It is, of course, open to any government, on its own responsibility, suddenly to terminate its diplomatic relations with any other state, or with any particular minister of any other state. But it has no claim to demand that the other state shall make itself the instrument of that proceeding, or concur in it, unless that state is satisfied by reasons duly produced of the justice of the grounds on which the demand is made. The principles which govern international relations on this subject appear to Her Majesty's Government to have been accurately laid down by Lord Palmerston on the occasion of Sir Henry Bulwer's sudden dismissal from the court of Madrid in 1848:

"'The Duke of Sotomayor, in treating of that matter, seems to argue as if every government was entitled to obtain the recall of any foreign minister whenever, for reasons of its own, it might wish that he should be removed; but this is a doctrine to which I can by no means assent. It is quite true, as said by the Duke of Soto-

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* See Appendix.

mayor, that the law of nations and international usage may permit a government to make such a demand; but the law of nations and international usage also entitle the government to whom such a request may be preferred to decline to comply with it. I do not mean to say that if a foreign government is able to state to the Government of Her Majesty grave and weighty reasons why the British minister accredited to such government should be removed, Her Majesty's Government would not feel it to be their duty to take such representations into their serious consideration and to weigh them with all the attention which they might deserve. But it must rest with the British Government in such a case to determine whether there is or is not any just cause of complaint against the British diplomatic agent, and whether the dignity and interests of Great Britain would be best consulted by withdrawing him or maintaining him at his post.'" (Viscount Palmerston to Señor Isturiz, June 12, 1848.)

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[Inclosure 2 in No. 893.—Editorial in the London Morning Post, Saturday, January 12, 1889.]

The correspondence between Lord Salisbury and Mr. Phelps relative to the peremptory dismissal of Lord Sackville from Washington throws considerable light upon this curious episode in the history of diplomacy. We have never expressed the view that the British minister could be held guiltless of an indiscretion by writing the letter which was the source of the disturbance or of emphasizing his first mistake by consenting to be interviewed by a member of the American press. But having candidly admitted this, we find little cause for surprise in the disinclination of Lord Salisbury to accept without demur the subsequent proceedings of the United States Government. The whole of the correspondence now before us is inspired by a courteous and conciliatory spirit, and it would be misplaced to comment upon it in any spirit of acrimony. Nevertheless, it must be observed that the Presidential exigencies shine clearly through all the proceedings of Mr. Bayard subsequent to Lord Sackville's letter, and are not rendered less distinct by the somewhat naïve admission of Mr. Phelps with respect to the dismissal of the accredited ministers of friendly states. "It was believed," says Mr. Phelps, "that the acceptance or retention of a minister was a question solely to be determined, either with or without the assignment of reasons, by the government to which he was accredited, and the Government of the United States was not, therefore, prepared for your lordship's intimation that particulars of the language complained of should be furnished, and that the action of Her Majesty's Government would await the reception of it and the hearing accorded to the minister in regard to it." With respect to this remarkable admission it can only be observed that, assuming the genuine surprise of the American Government, the diplomats of the United States must possess a somewhat elementary acquaintance with the recognized text-books of international law on the questions of the rights of ambassadors. The precedents concerning the treatment of legations are among the most carefully worked out points in the subject; a fact which is only to be expected when the historic proneness of nations to take offense is considered. The absolutely unusual character of summary proceedings may be recognized by any one who notices the care with which Grotius admits an exception to the rules which dictate extraordinary courtesy to an ambassador or minister. The first of modern international lawyers draws the line at self defense. A state, he says, must resist violence offered by the representative of another state, but must distinguish this from any question of punishment. No question of this kind arose, so far as we remember, between 1718 and 1848, and even before the former date the cases of the Bishop of Ross, in the days of Elizabeth, and of the Russian ambassador to the court of St. James, in the reign of Anne, stand out as solitary exceptions to the general courtesy everywhere enforced. In 1718 Gyllenburg, the ambassador of Sweden, was rightly arrested for joining in a plot against George I, and, short of some absolute treason of this kind against the state to which he was accredited, no minister, with the exception of Lord Dalling and Bulwer in 1848, at Madrid, has received the summary notice to quit which was sent to Lord Sackville.

It is the Madrid incident, in fact, which alone can furnish a direct precedent for this case, and to the words of Lord Palmerston the present prime minister very rightly refers the American Government. Lord Dalling and Bulwer, as every one will remember, was suspected of encouraging the national disaffection then rife in Spain against the Government of Isabella II, and he was peremptorily handed his passports. Lord Palmerston then complained that the Duke of Sotomayor, "in treating of that matter, seemed to argue as if every government was entitled to recall any foreign minister whenever, for reasons of its own, it might wish that he should be removed." And he goes on to deny utterly the justice of any such doctrine. It is quite true, he says, that any government is entitled to demand the withdrawal of a minister whose presence is no longer desired, but it is equally permitted by the same international usage for the nation thus addressed to refuse a compliance with the request. It is evident

that to force such an alternative upon a friendly state would be to ignore all the loopholes of diplomacy and to produce very strained relations, and therefore the wisdom of the law of nations has decided that a complaint of this kind should be made the subject of mutual inquiry and negotiation between the parties concerned. As Lord Palmerston said in the Madrid case, it must then ultimately rest with the government of the minister whose conduct is impugned to decide whether to comply with the request or to abide by the consequences of a refusal. Now, it must be particularly observed that this doctrine, so far from being the invention of Lord Palmerston, had been from the first laid down by the international law writers with a clearness which accounts for the rarity of its infraction. The celebrated jurist, Wheaton, who it may be remarked was the minister of the United States to the court of Prussia, and is understood to be largely studied by the diplomatists of his native country, is particularly explicit upon this subject. Except in cases affecting "the existence and safety" of the state to which foreign representatives are accredited, Wheaton states as the general rule that "it appears to be the established usage of nations to request their recall by their own sovereign which, if unreasonably refused by him, would unquestionably authorize the offended state to send away the offender." Subsequently, as if to strengthen this strong statement of the agreement between civilized nations, Wheaton adds, "the anomalous exceptions to the general rule resolve themselves into the permanent right of self-preservation and necessity." Yet, with all this mass of precedent and uncontroverted statement of usage open to their inspection, President Cleveland and Mr. Bayard believed that it rested solely with them to put the greatest of international slights on the friendly "representative of Her Britannic Majesty."

It will be observed that the case of Lord Sackville is not even on all-fours with that of Lord Dalling in respect to the gravity of the offense lodged against him. There seems to have been a general belief at Madrid in the complicity of the English minister in a movement which satisfied the rule of Grotius and Wheaton and of every other international jurist that "the safety and existence of the state" must be in question in order to justify peremptory measures. But all that is alleged against Lord Sackville is an inconvenient expression of his opinion on the puzzling attitude of the Democratic party with regard to the fisheries treaty; moreover, Mr. Bayard evidently accepted his original disclaimer, and no attempt is made in the letter of Mr. Phelps to get away from the awkward charge of Lord Sackville that "in the end the exigencies of the campaign and the necessity of gaining the Irish vote were paramount." These are poor grounds on which to have offered to the British Empire a slight historically identified with times which we now regard as semi-barbaric. Lord Salisbury is too conscious of his vast responsibilities to identify the American nation with the idiosyncracies of its wire-pullers, and he makes no irritating demand for the redress which, unless international comity be a farce, might be considered as fairly due. But in drawing the attention of the United States Government to the normal usages of diplomacy, in declining to discuss their electoral peculiarities and in refusing to give, after the event, the opinion of Her Majesty's Government, which, by every rule of states in amity, should have been requested beforehand, Lord Salisbury has acted with a due regard to the national dignity. Lord Sackville's indiscretion offers no condonation of Mr. Bayard's neglect of decent international observance, and Great Britain can easily afford to accept the verdict of the civilized world as against a few American politicians without abating in any way her cordial feeling to the great American people.

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## No. 17.

### *Mr. Phelps to Mr. Bayard.*

No. 901.] LEGATION OF THE UNITED STATES,
*London, January* 16, 1889. (Received January 23.)

SIR: With reference to previous correspondence on the subject of Lord Sackville's dismissal, and particularly to my dispatch numbered 893, of 12th instant, I have the honor to inclose leading articles from the Times and Daily News newspapers, respecting the correspondence published by Her Majesty's Government, copies of which have been forwarded to you.

I have, etc.,

E. J. PHELPS.

[Inclosure 1 in No. 901.—Editorial from the London Times, Tuesday, January 15, 1889.]

The publication of the correspondence between the Governments of the United States and Great Britain on the dismissal of Lord Sackville marks, it may be hoped, the close of a troublesome diplomatic incident. Mr. Cleveland's administration has, it is to be presumed, said its last word, and, in any case, Lord Salisbury can have nothing to add to his conclusive letter of December 24. For the present the secretary of the British legation in charge is abundantly competent to transact any business which is likely to arise out of the relations between the two countries. In England the best disposition exists to avoid any complication which might shorten the sojourn here of a representative American so popular and respected as is Mr. Phelps. When the new President is installed at Washington the United States legation in London will have a fresh chief. The opportunity will no doubt be taken to fill the corresponding British post. On both sides of the Atlantic there is a sincere desire to forget a dispute trivial in its origin and absurd in its details. All sound American opinion from the first was keenly ashamed of the trap laid by jobbing partisans for Lord Sackville's ingenuous trustfulness. It was ashamed of the exaggerated importance attached to the disclosure of his personal views upon American politics. It was ashamed, most of all, of the eagerness of the President and his Cabinet to submit to the dictation of party wire-pullers and treat a foreigner's error as if it were a treason. Englishmen, in their turn, have no cause to reflect with pleasure on the conduct of their representative. A diplomatist ought not merely to have scented the snare in virtue of his professional training, but to have been guarded by an intuitive feeling of the obligations of his position from the least temptation to let himself be caught by it. No extraordinary sagacity is needed to warn an envoy that it is not his province to tell expatriated fellow-countrymen how they should use their rights of citizenship in a new land. He increased the offense by the indiscreet endeavor to excuse himself before a self-constituted native tribunal, to which it was not for him to render an account. Had he cut the knot by soliciting Lord Salisbury's leave to resign forthwith he might perhaps have acted most judiciously. But nothing was done at the time by anybody concerned which was precisely appropriate. Nothing can now be done to correct what was then done wrong. The only remaining expedient is to pass a general act of oblivion and start afresh. There is little fear that any future British representative's guilelessness will give occasion to disinter the matter as a precedent.

The affair itself is already by-gone and dead. A principle enunciated by Mr. Phelps as a guide for the two Governments in dealing with it is, as Lord Salisbury has said, of more permanent importance. Lord Salisbury, it will be remembered, replied to the original request for the withdrawal of Lord Sackville by asking for particulars. He intimated that when they had been furnished and the minister had been afforded an opportunity of explanation, the Queen's Government would return a definite answer. This, neither in practice nor in theory, satisfied the American Government. Mr. Phelps, acting doubtless on instructions, in his letter of December 4 lays it down as self-evident that the demand of the recall upon a general statement was sufficient, whatever consideration the reasons for it might afterwards require or receive. The notification of the general statement itself, it is implied, was a piece of courtesy rather than of international necessity. Mr. Phelps propounds broadly that "the acceptance or retention of a minister is a question solely to be determined, with or without the assignment of reasons, by the government to which he is accredited." By this he manifestly means that it is the right of the government to which he is accredited to decide, and the duty of the government which accredits to act upon the decision. Lord Salisbury challenges the proposition in its obvious signification. He takes his stand upon the distinction sharply drawn by Lord Palmerston in 1848 on Sir Henry Bulwer's dismissal from the court of Madrid. Every sovereign state is entitled to determine whether it shall demand the recall of a foreign minister accredited to it. If the request be supported by "grave and weighty reasons," it is the plain duty of the sovereign state which accredits him to consider the reasons, and if they seem adequate, to defer to them. By the law of nations the government to which the minister is sent may specify any grounds for his removal. By the same law it rests with the government which sent him to consider and decide upon their sufficiency. Lord Salisbury is willing to go a step further, as Lord Palmerston would have been, had the point been urged. He grants the authority of any government, under the law of nations, to terminate suddenly, on its own responsibility, with or without reasons, as Mr. Phelps would say, its diplomatic relations with any other state, or with a particular minister of any other state. But he claims an equivalent liberty for such other state to refuse to "make itself the instrument of the proceeding or concur in it, unless it be satisfied by reasons duly produced of the justice of the grounds on which the demand is made."

The theory, as thus expounded and illustrated, must command general assent. It is perfectly intelligible and it is universally applicable. Each state is left free to act for itself within its own sphere. If it be discontented with the demeanor of a foreign

minister its natural course is to bring forward its complaint in a friendly way. A friendly government will entertain the representation in the same spirit. No government which does not want to pick a quarrel will insist upon keeping a diplomatist where, by his own fault or not, he can not discharge his functions successfully. Should it think the alleged grievances petty and imaginary, or manufactured for purposes extraneous to the question of the envoy's good faith and honor, it can not fairly be expected to cast an unjust slur on the professional reputation of its servant. On the other hand, judgments and standards in subjects of the sort will often differ. Motives, "not of an international character," as Lord Salisbury expresses it, may palliate an ebullition of ill-temper against an envoy which to his own government appears preposterous. If the government to which he is accredited act upon the local emotion, it must itself undertake the moral liability. All which the other government can do, benevolently as it may be disposed, is to adopt a neutral and reserved attitude. That is exactly the conduct which the British Government has been and is pursuing. It recognizes that the United States Government might, if it pleased, have sent Lord Sackville his passports without any prior communication with his Government, though that Government could not but have retaliated in kind. It recognizes that the American Government had the right to choose its own mode of explaining its act, if it gave any explanation. It is willing to believe that the explanation as tendered seemed satisfactory to President Cleveland and his advisers. Accordingly, it has exhibited no official resentment, though it must have felt considerable surprise at "a striking departure from the circumspect and deliberate procedure by which in such cases it is the usage of friendly states to mark their consideration for each other." It is able and ready to appreciate the very unfortunate bearing of the accident of its representative's awkward innocence upon an electoral crisis, and to forgive the petulance of the sufferers. At the same time it could not have visited upon the head of an honest public servant all the indirect consequences to the American Democratic party of his small blunder without a glaring violation of the equity which, like charity, should begin at home. Americans are not so unreasonable as to insist, when the delusion has served its turn, not only upon seeing mole-hills as mountains, but that Englishmen should borrow their spectacles to discern the enormity of the scene.

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[Inclosure 2 in No. 901.—Editorial from the London Daily News, Monday, January 14, 1889.]

LORD SACKVILLE AND THE AMERICAN GOVERNMENT.

The further correspondence respecting the demand for Lord Sackville's recall, which has just been published, practically concludes with a weighty and important dispatch addressed by Lord Salisbury to Mr. Phelps. Lord Salisbury argues with considerable force, in opposition to the American minister, that a foreign government can not require as a matter of right the withdrawal of a British representative who may have made himself obnoxious in the country where he is officially residing. To this contention Mr. Bayard has not yet made any reply, and since his own term of office is rapidly drawing to a close as the inauguration of General Harrison approaches, it seems highly probable that no reply will ever be made. The views of the American Secretary of State and of President Cleveland are sufficiently expressed by Mr. Phelps in a single sentence. "It was believed," he says, referring to the request made by Mr. Bayard for Lord Sackville's removal—"it was believed that the acceptance or retention of a minister was a question solely to be determined, either with or without the assignment of reasons, by the government to which he was accredited." Put in this absolute and unqualified form, the proposition is no doubt too broad, and Lord Salisbury more correctly lays down the international understanding on the subject: "It is, of course, open," he says, "to any government, on its own responsibility, suddenly to terminate its diplomatic relations with any other state, or with any particular minister of any other state. But it has no claim to demand that the other state shall make itself the instrument of that proceeding or concur in it, unless that state is satisfied by reasons duly produced of the grounds on which the demand is made." We take this to be the proper usage in the matter, and we should be much surprised if Mr. Bayard or his successor were seriously to dispute it. An ambassador or minister is the servant of the sovereign or President who appoints him and by whom alone he can be cashiered. He is responsible for his conduct to his official superiors at home, and not to the authorities with whom he negotiates. If they have any complaint against him, they should make it not to him, but to those under whom he acts. The suspension of diplomatic intercourse to which Lord Salisbury alludes does not involve or necessarily lead to a declaration of war. President Cleveland might undoubtedly, if he had thought fit, have refused to hold any further communication with Lord Sackville, and have recalled Mr. Phelps from London. This would have been a more serious step, and more likely to cause mischief, than the step which he actually took.

But it would have been unimpeachable in point of form; and Lord Salisbury, who is a far better dispatch writer than either Mr. Bayard or Mr. Phelps, would not have enjoyed the honors, such as they are, of a triumph according to Puffendorf.

Although it is unfortunately impossible to defend Lord Sackville's behavior, or to deny that the American Government had a substantial grievance, Lord Salisbury is perfectly well warranted in calling attention to those general principles, which, as he observes, are more interesting than the circumstances of the particular case. He cites the valuable precedent of Sir Henry Bulwer, afterwards Lord Dalling, who was suddenly dismissed from the court of Madrid in 1848. That year of European revolution included an insurrection in the Spanish capital, which induced Marshal Narvaez to suspend the constitutional decrees. Against this arbitrary edict Sir Henry Bulwer protested, and was immediately ordered to leave Madrid within two days. So speedy was his departure, that he is said to have appeared at the foreign office in London before anybody there was acquainted with what had occurred; and it is a curious coincidence that he was very shortly afterwards sent as minister to Washington. Lord Palmerston upon that occasion declared with his usual plainness of speech that while the Spanish Government might demand the recall of a British representative, Her Majesty's Government was equally entitled to refuse compliance with the request. Señor Isturiz, the Spanish minister in London, forthwith returned home, and there was thus a complete rupture of diplomatic relations between the two countries. Lord Salisbury winds up his lecture by remarking that "there was nothing in Lord Sackville's conduct to justify so striking a departure from the circumspect and deliberate procedure by which in such cases it is the usage of friendly states to mark their consideration for each other." The prime minister and foreign secretary has vindicated the technical propriety of the course which he pursued, and has succeeded in making a distinct point at the expense of the outgoing President. But while heartily agreeing with him and with Mr. Phelps in their "regret that a personal incident of this character should have in any degree qualified the harmony which for a long time past the enduring sympathy of the two nations has impressed upon the mutual relations of their governments," we can not think that his practical wisdom has been equal to his controversial skill. Lord Sackville's persistent blundering should have been followed by his recall, and his place should have been at once filled up. It is as true in public as in private life that sulks do not pay. The vacancy at Washington serves no useful purpose, and has merely enabled the American press to inquire ironically why the British legation should not be closed. On the other hand, nothing could have been in worse taste than Lord Salisbury's suggestion at the Guildhall, that the defeat of Mr. Cleveland was a victory for this country.

The original cause of this rather undignified quarrel has been more than sufficiently discussed, and has happily been almost forgotten. But as Lord Sackville in these papers gives himself all the airs of a martyr, it is necessary to say that he simply confirms the view of his unfitness for his late post which had previously been formed by most impartial persons. When he writes in a formal dispatch, which for obvious reasons had much better not have been published, "that the exigencies of the campaign * * * and the necessity of gaining the Irish vote were paramount," he says what is quite irrelevant, although, after the more candid than prudent confession of Mr. Phelps, the truth of the charge can not be denied. For interfering with the internal politics of the United States, and for commenting upon the policy of the American Government in an interview with a newspaper reporter, Lord Sackville had naturally incurred the displeasure of those against whom his action was directed, and their motives were no concern of his or of ours. He gives as his reason for not denying the statements attributed to him by the New York Tribune that "any communication through newspapers would have been undignified." But he should have thought of that before. It can not be right for a minister to tell a journalist that the proceedings of the President, as well as of the Senate, were "for political effect," and wrong to employ the columns of a leading journal in explaining his words away. Mr. Phelps is, unhappily, about to leave this country, where he has won general respect and regard. The dispatch which he wrote to Lord Salisbury on the 4th of December may therefore be his last. It is a curiously frank document to come from an eminent lawyer and a practiced diplomatist. He explains, with perfect clearness and in considerable detail, that Lord Sackville's foolish letter was employed to injure the prospects of President Cleveland, and he adds, in a style of affecting simplicity, that "the number of British subjects of Irish descent who have sought and obtained naturalization in the United States under the existing very liberal laws on that subject is sufficiently large to exercise at the decisive points a very considerable influence upon the result of such an election." According to the valuable testimony of Mr. Bryce, the hostility of Irish Americans to Great Britain has been appreciably diminished by the policy of Mr. Gladstone, and the grant of home rule would soon extinguish it altogether. It is estimated that in the third generation an Irishman who has emigrated to the United States becomes indistinguishable from a native American, and therefore the continued existence of an anti-English party requires a periodical supply of fresh

material. Lord Salisbury and Mr. Balfour, supported by the sympathizing statesmanship of Lord Hartington, are actively engaged in this unpatriotic manufacture of hatred and ill-will. But wiser heads than theirs are working on the other side; and when the English people have fully realized the true position of affairs, repugnance to England will die away both in the larger Ireland beyond the seas and in the smaller Ireland at home.

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## No. 18.

### *Mr. Bayard to Mr. Phelps.*

No. 1054.] DEPARTMENT OF STATE,
*Washington, January* 30, 1889.

SIR: I have received your dispatch No. 874, of the 29th of December last, in which you transmit the reply of the Marquis of Salisbury, bearing date the 24th of the same month, to your note of the 4th of December, in relation to the case of Lord Sackville. While I concur in his lordship's opinion that "the general principles admitted by the practice of nations upon this matter are of more importance than the particular case," yet before proceeding to consider his lordship's position thereon, I deem it essential to state to Her Majesty's Government, more fully than heretofore, the views of this Government in respect to the grounds of Lord Sackville's dismissal. It is true that the Marquis of Salisbury, in the note to which I have now the honor to reply, has observed that the action of this Government has rendered it no longer necessary for that of Her Majesty to consider the merits of the complaint against Lord Sackville. It is not now, however, and has not been my purpose, in stating to Her Majesty's Government these reasons, to invite a discussion of their sufficiency. On this subject this Government has entertained no doubt. But it is my desire, in a friendly way, to acquaint Her Majesty's Government with the views of this Government in regard to the misconduct of their envoy; and this is rendered the more important in the light of certain expressions contained in Lord Salisbury's note and its inclosure.

The offense of Lord Sackville, as heretofore stated, consisted in what this Government was compelled to regard as his intentional interference in our domestic politics, in assuming by his advice to control the political action of persons who, though formerly his countrymen and fellow-subjects, had renounced their allegiance to the British Government, and, in obtaining naturalization as American citizens, had assumed its duties and sworn to support and bear true faith and allegiance to the Government of the United States alone.

On the 12th of September last Lord Sackville, being then at Beverly, in the State of Massachusetts, received a letter dated September 4 at Pomona, Cal., and signed "Charles F. Murchison," wherein the writer was described to be a naturalized American citizen of English birth, who yet regarded the interests of "England, the motherland," as paramount, and made this preference his "apology" for applying to the British minister for counsel as to the course he should pursue to further British interests in the affairs of his adopted country. He stated that many English citizens had for years refrained from being naturalized, since they thought "no good would accrue from the act;" but that the policy of "Mr. Cleveland's administration" had been so "favorable and friendly towards England, so kind in not enforcing the retaliatory act passed by Congress, so sound on the free-trade question, and so hostile to the dy-

namite school of Ireland, that by the hundreds—yes, by the thousands—they had (have) become naturalized for the express purpose of helping to elect him over again, the one above all of American politicians they consider their own and their country's best friend." The writer declared himself to be one of those "unfortunates" who had become so naturalized, and whom "Mr. Cleveland's message to Congress on the fishery question" had "alarmed" and compelled to "seek further knowledge" before "finally casting their (our) votes for him, as they (we) had intended to do." "If," continued the writer, "Cleveland was pursuing a new policy toward Canada temporarily only, and for the sake of obtaining popularity and continuation of his office four years more, but intends to cease his policy when his re-election is secured in November and again favor England's interests, then I should have no further doubts, but go forward and vote for him." The opposing candidate, Mr. Harrison, was further declared to be "a high-tariff man, a believer on the American side of all questions, and undoubtedly an enemy to British interests generally." With such statements the writer applied to Lord Sackville for advice, and concluded as follows: "As you are at the fountain-head of knowledge on the question, and know whether Mr. Cleveland's present policy is temporary only, and whether he will, as soon as he secures another term of four years in the Presidency, suspend it for one of friendship and free-trade, I apply to you, privately and confidentially, for information which shall in turn be treated as entirely secret. Such information would put me at rest myself, and if favorable to Mr. Cleveland would enable me, on my own responsibility, to assure many of our countrymen that they would do England a service by voting for Cleveland and against the Republican system of tariff. As I before observed, we know not what to do, but look for more light on a mysterious subject, which the sooner it comes will better serve true Englishmen in casting their votes."

Such was the letter addressed to and received by Lord Sackville as the representative of Her Britannic Majesty. Whether it was obviously fraudulent, or a thinly veiled fraudulent scheme, is now a question of minor significance. But whether fictitious and fraudulent or no, there are certain facts indubitably and indelibly stamped upon its face. It declared the writer to be actuated by motives of manifest perfidy to the United States. It grossly impugned and aspersed the motives of the President. It solicited from the official to whom it was addressed an authoritative confirmation or denial of those impugnments and aspersions, upon information which his official relations to this Government were supposed to supply, and thus to abuse the confidence he enjoyed.

To this application Lord Sackville promptly responded, on the 13th of September, that "any political party which openly favored the mother country at the present moment would lose popularity, and that the party in power is fully aware of this fact;" and that in respect to the "questions with Canada, which have been unfortunately re-opened since the rejection of the (fisheries) treaty by the Republican majority in the Senate, and by the President's message to which you allude, allowance must therefore be made for the political situation as regards the Presidential election." And, to give additional emphasis to his views, he inclosed an extract from a newspaper in which electors were distinctly advised to vote for Mr. Cleveland's re-election.

It is true that the letter of Lord Sackville was marked "private," and that his correspondent stated that it would be kept secret. In relation to this the Marquis of Salisbury observes: "Private communica-

tions, made by an ambassador in good faith, have never, I believe, before been made the subject of international complaint."

The precise force or applicability of this observation in the present case is not perceived. Lord Sackville has stated that his correspondent was unknown to him. The request for his advice could not, therefore, rest upon personal relations of intimacy, duty, or confidence. The sole basis of the appeal for his counsel was declared by the correspondent to be his preference, as a native Englishman, for the interests of England as against those of the United States. On behalf of the "motherland" he made his appeal. His assurance of secrecy was palpably an invitation to the representative of that country to commit an act of impropriety, inconsistent with his duty and wholly outside of the scope of his functions. He plainly informed Lord Sackville that he sought his advice not only in order to determine how to cast his own vote, but also in order to influence the political course of "many of our countrymen" in an election which he averred to be critical; referring, by that designation, to persons who, like himself, had "by the hundreds—yes, by the thousands"—become American citizens with the intent to "favor England's interests."

Lord Sackville was thus applied to in unmistakable terms to interfere in the political affairs of the United States, and at a time of intense public feeling, when issues of deep moment were awaiting popular decision. And while the conditions then existing did not create the offense of Lord Sackville, they must be taken into account in estimating its gravity. He was invited to assist his correspondent "and many others" to abuse and betray the privileges of their citizenship at an important election involving the control of the Government itself, not in the interest of that Government, but wholly in the interest of a foreign Government.

The character of Lord Sackville's act is not altered by the fact that another purpose than the one avowed may have been and probably was contained in the application. Nor am I able to perceive that any diminution of his offense can be argued from the supposition that his reply "would be treated as entirely secret."

Even as to this assurance of his unknown correspondent, the comment of Lord Sackville, in his interview published in the New York Herald of the 23d of October, is noticeable. "He understood, from what was said in the letter to which he was replying, that his answer would be shown to other people than the recipient."

The case can not be altered by the consideration that, by reason of a breach of confidence on the part of his correspondent, the minister's letter did not affect only the class for whom it was professedly sought, but that it was solicited and used to influence another and different class of voters. The fact of the offense must be determined by the principles which it violated, and without respect to any particular direction in which its injurious effects operated. In this aspect of the case, the question is simply whether a foreign diplomatic representative shall assume the function of influencing elections in this country. Such an usurpation is of itself an intolerable offense.

The correspondence now under consideration not only constituted an unprecedented interference in our domestic politics, but it contained gross impugnments of the President's public action. Hence, had the objectionable conduct of Lord Sackville ended with his reply to the Murchison letter the situation would have been sufficiently serious; but in various statements made by him to representatives of the public press the impugnments of the action of this Government were empha-

sized. In regard to these statements, I shall only say that, as Lord Sackville has in a general way questioned their accuracy, and has excused himself from failing to make any public contradiction or explanation of them on the ground that it could only have led "to unseemly and undignified controversy," it is greatly to be regretted that his lordship should originally have resorted to such channels of communication in order to comment upon the serious questions raised by the publication of his correspondence. That the situation was rendered more difficult by his lordship's utterances through the public press is manifest.

I advert, however, to a passage in Lord Sackville's letter to the Marquis of Salisbury of the 13th of December last, wherein he comments upon your note of the 4th of the same month, saying: "That the statement that no contradiction or explanation of them (his newspaper utterances) had ever been published by me is true, but that all mention of my letter to Mr. Bayard, copy of which was inclosed in my dispatch of the 31st October, is omitted; and in this connection I beg to refer your lordship to my statement forwarded in Mr. Herbert's dispatch of the 9th November."

As this forms part of the reply of Lord Salisbury to your note, it should be noticed.

It is true that on the 26th of October, before writing the letter to me of that date, Lord Sackville called upon me and exhibited the Murchison letter. I then drew his attention very seriously to his statements in the Tribune, but, as he states, made no expression of personal resentment towards him. Yet, it is also true that in the most emphatic language I expressed to him my amazement at and reprobation of his conduct and avowed my sense of the gravity of the situation he had created. Personal displeasure was outside the case. His letter to me, as published by him, will be found upon examination, to contain not a denial co-extensive with the offensive language published in the Tribune, but merely a disavowal of intent to offend and of the use of special words attributed to him in other newspapers than the Tribune.

This imperfect denial, which did not meet the language to which his attention had been directed, was contained in a personal note to me, as if the issue was personal in its nature between his lordship and myself; a view which is without justification, and never can be accepted.

It may also be observed that in his explanatory statement of November 8 to his own Government, to which I should not advert if it were not referred to in the inclosure in Lord Salisbury's note, Lord Sackville continued his impugnments of the President, saying "that party exigencies overruled international comity," and referring to "telegrams received at the White House," etc.

I now proceed to consider that part of the Marquis of Salisbury's note laying down the rule which, in his opinion, governs the dismissal of diplomatic agents.

In your note of December 4, you had stated the position of this Government, as follows:

> In asking from Her Majesty's Government the recall or withdrawal of its minister upon a representation of the general purport of the letter and statement above mentioned, the Government of the United States assumed that such request would be sufficient for that purpose, whatever consideration the reasons for it might afterwards demand or receive.
>
> It was believed that the acceptance or retention of a minister was a question solely to be determined, either with or without the assignment of reasons, by the Government to which he was accredited.

Replying to this, the Marquis of Salisbury observes:

Her Majesty's Government are unable to assent to the view of international usage which you have here expressed. It is, of course, open to any Government, on its own responsibility, suddenly to terminate its diplomatic relations with any other state or with any particular minister of any other state. But it has no claim to demand that the other state shall make itself the instrument of that proceeding, or concur in it, unless that state is satisfied by reasons, duly produced, of the justice of the grounds on which the demand is made.

The principles which govern international relations on this subject appear to Her Majesty's Government to have been accurately laid down by Lord Palmerston on the occasion of Sir Henry Bulwer's sudden dismissal from the court of Madrid in 1848:

"The Duke of Sotomayor, in treating of that matter, seems to argue as if every Government was entitled to obtain the recall of any foreign minister, whenever, for reasons of its own, it might wish that he should be removed; but this is a doctrine to which I can by no means assent. It is quite true, as said by the Duke of Sotomayor, that the law of nations and international usage may permit a Government to make such a demand; but the law of nations and international usage also entitle the Government to whom such a request may be preferred to decline to comply with it.

"I did not mean to say that if a foreign Government is able to state to the Government of Her Majesty grave and weighty reasons why the British minister accredited to such Government should be removed, Her Majesty's Government would not feel it to be their duty to take such representations into their serious consideration, and to weigh them with all the attention which they might deserve. But it must rest with the British Government in such a case to determine whether there is or is not any just cause of complaint against the British diplomatic agent; and whether the dignity and interests of Great Britain would be best consulted by withdrawing him or by maintaining him at his post."

The case of Lord Stratford de Redcliffe, then Mr. Stratford Canning, who was rejected without assignment of reasons by the Russian Government, and the acceptance of that decision by Lord Palmerston, might be cited to show that the rule laid down by him a few years later in Sir Henry Bulwer's case is by no means inflexible, and can be applicable only to that very peculiar case.

The circumstances of that case, briefly stated, are that on the 10th of March, 1848, Lord Palmerston instructed Her Majesty's representative at Madrid "to recommend earnestly to the Spanish Government, and to the Queen Mother, if you have an opportunity of doing so, the adoption of a legal and constitutional course of government in Spain," and his lordship concluded his instructions with the following observations:

It would then be wise for the Queen of Spain, in the present critical state of affairs to strengthen the executive government by enlarging the basis upon which the administration is founded, and by calling to her councils some of those men who possess the confidence of the liberal party.

These instructions were duly made known by Sir Henry, then Mr. Bulwer, who, on the 8th of April, 1848, transmitted a copy to the Duke of Sotomayor.

On the 10th of the same month the Duke of Sotomayor returned these communications with bitter and indignant comments, which I forbear to reproduce, and in regard to which I desire merely to observe that they were expressly directed against "Her Britannic Majesty's minister for foreign affairs," and condemned "the unheard-of pretensions of Lord Palmerston thus to mix himself up in the internal affairs of Spain."

It is true that when the step of summarily dismissing Her Majesty's minister was shortly afterwards taken, objections to his personal conduct were included in the explanations of the Spanish Government. But in this relation it is pertinent to quote from the letter of Sir H. Bulwer to Lord Palmerston of the 30th of May, 1848, which statements were fully accepted by Her Majesty's Government:

I did not fly from slander; I was less likely to fly from menace; but a triumph was to be gained in some way or other at my expense, and not at mine individually. Let

this always be remembered: your lordship's name—and your lordship's name is in foreign affairs the Government's name—was continually connected with my own, and through me it was meant to strike at the Government itself

The account of the episode given in the "Life of Lord Palmerston," by the Hon. Evelyn Ashley, is as follows:

The "Spanish marriages" have been sufficiently discussed in recent histories to warrant their omission without further notice. General Narvaez had, as will be remembered, caused Sir Henry Bulwer to quit Madrid, and the English Government had been compelled by this open affront to send the Spanish ambassador his passport. I say compelled, because the recall of ambassadors was a form of protest which Lord Palmerston, as a rule, disliked. In a letter to Lord Howden (September 1, 1850) he says: "The rupture of diplomatic relations seems to me one of the worst ways of showing displeasure, unless it is meant to be an immediate forerunner of war. The non-intercourse situation as between two states which have political and commercial interests in common is exceedingly inconvenient to both parties, and probably as much to the one as to the other." (Vol. I, p. 16, ed. 1876.)

If applied to the case of the dismissal of a minister for misconduct, I hold the position of Lord Palmerston, for reasons already stated, to be obviously unsound. But, in fact, the condition of affairs Lord Palmerston was then discussing did not constitute such a case. The complaint of the Spanish Government was, in fact, against his lordship rather than against his envoy, and in the consequences which ensued Sir H. Bulwer became a vicarious sacrifice for his lordship, which naturally the latter was indisposed to permit. So that the case was, in reality, as stated by Lord Palmerston in his letter to Lord Howden, a suspension of diplomatic intercourse.

The case of Lord Sackville is wholly dissimilar. In the former the objection of Spain was to the action of Lord Palmerston and presumptively of the ministry of Great Britain, of which Sir Henry Bulwer was but the channel of communication, and throughout the entire transaction Sir Henry Bulwer received the entire approval of his lordship.

The offense of Lord Sackville consisted in personal misconduct, wholly inconsistent with his official duty and relations, of which no suggestion of approval by his Government has yet been intimated.

Thus the present issue is not whether it is requisite that a sovereign asking the recall of a foreign minister should give the reasons for the application, but whether, when, as in the present case, such recall has been asked on the ground of interference in the politics of the country to which he is accredited, the question of the culpability or degree of such interference is to be left not to the decision of the offended sovereign but to the determination of the sovereign by whom the offending minister was accredited. It is not understood how the latter view can be held by Her Majesty's Government to be a principle of the law of nations, for it would be equivalent to saying that, by such law, that Government is entitled to determine how far it will interfere in the politics of foreign states, and what degree of interference by its ministers in the internal affairs of such states it may see proper to sustain. It would be far better to suspend diplomatic relations entirely than to continue them on the basis of such a right of interference in the domestic politics of other states as would appear to be assumed, and under which, if admitted, the independence and dignity of the injured nation would perish.

What I deem to be the true international rule on this subject I find stated under the high authority of Calvo:

When the government near which a diplomatic agent resides thinks fit to dismiss him for conduct considered improper, it is customary to notify the government which accredited him that its representative is no longer acceptable, and to ask for his recall. If the offense committed by the agent is of a grave character, he may be dis-

missed without waiting the recall of his own government. The government which asks for the recall may or may not, at its pleasure, communicate the reasons on which it bases its request; but such an explanation can not be required. It is sufficient that the representative is no longer acceptable. In this case international courtesy prescribes his immediate recall; and if, notwithstanding, the other government does not comply with the request, the dismissal of the agent follows as a necessary consequence, it is effected by a simple notification and the sending of his passport. The dismissal of a diplomatic agent for improper conduct, either in his individual capacity or in the discharge of his official duties, is not an act of discourtesy or hostility toward the Government which accredited him, and, consequently, can not be a reason for declaring war. (Int. Law, vol. 3, p. 213, 4th ed., 1888.

The point of time at which this exclusive discretion is to be exercised—whether before the departure of the envoy for his post, or at his entrance upon his duties, or at any period during their continuance—would not apparently affect the claim put forward by the Marquis of Salisbury.

Under the rule adopted by him the receiving government must take whoever may be sent; and, in case by misbehavior the envoy should render himself unacceptable, its rights are to be restricted to a submission of the reasons, which, if "grave and weighty," would be taken into serious consideration and weighed by Her Majesty's Government "with all the attention they might deserve."

To accept such a proposition as a rule of international intercourse would be absolutely inconsistent with national independence. I have, therefore, forborne to cite from Calvo the numerous cases from which he deduces the rule laid down by him.

An envoy is intended to be a confidential intermediary between two governments professing friendly relations, and in reliance upon his good faith the best assurance of continued amity and good understanding will be found.

It can not, therefore, be justly regarded as a cause of international offense to request the recall of an envoy whenever it is discovered that his conduct has been such as to unsettle the confidence of the receiving government; nor for that government to dismiss him whenever in its judgment circumstances have arisen, owing to his misconduct, which endanger its own safety and welfare or tend to jeopardize the good relations of the two governments.

I renew my expressions of sincere regret that what Lord Salisbury has correctly termed a "personal incident" should have been thought by Her Majesty's Government in any degree to qualify the harmony of intercourse between two nations, for whose amicable relations none can be more sincerely desirous than the President and those who, together with him, are charged with the administration of the affairs of the Government and people of the United States.

You are authorized to communicate a copy of this paper to Her Majesty's Government.

I am, sir, your obedient servant,

T. F. BAYARD.

# APPENDIX.

## BRITISH OFFICIAL PUBLICATION. UNITED STATES No. 4 (1888).

*Further correspondence respecting the demand of the United States Government for the recall of Lord Sackville.*

[In continuation of "United States No. 3 (1888).]

*LIST OF PAPERS.*

No. 1. The Marquis of Salisbury to Mr. Herbert. Telegraphic. November 5, 1888.
No. 2. Mr. Herbert to the Marquis of Salisbury. Telegraphic. November 6, 1888.
No. 3. Mr. Herbert to the Marquis of Salisbury. Telegraphic. November 7, 1888.
No. 4. Lord Sackville to the Marquis of Salisbury. October 30, 1888. One inclosure
No. 5. Mr. Herbert to the Marquis of Salisbury. Telegraphic. November 8, 1888.
No. 6. Lord Sackville to the Marquis of Salisbury. October 28, 1888.
No. 7. Lord Sackville to the Marquis of Salisbury. October 31, 1888. Two inclosures.
No. 8. Mr. Herbert to the Marquis of Salisbury. November 9, 1888 One inclosure.
No. 9. Mr. Phelps to the Marquis of Salisbury. December 4, 1888. Five inclosures.
No. 10. The Marquis of Salisbury to Lord Sackville. December 8, 1888.
No. 11. The Marquis of Salisbury to Mr. Phelps. December 24, 1888. One inclosure.
No. 12. Mr. Phelps to the Marquis of Salisbury. December 28, 1888.

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### No. 1.

*The Marquis of Salisbury to Mr. Herbert.*

[Telegraphic.]

FOREIGN OFFICE, *November* 5, 1888.

You may, if the United States Government have not yet been informed, write to Secretary of State that, by instructions from Her Majesty's Government, you have, in the absence of Lord Sackville, been placed in charge of the legation.

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### No. 2.

*Mr. Herbert to the Marquis of Salisbury.—(Received November 6.)*

[Telegraphic.]

WASHINGTON, *November* 6, 1888.

I have received your lordship's telegram of yesterday.

I have this day written to the United States Government in the sense of your lordship's instructions.

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### No. 3.

*Mr. Herbert to the Marquis of Salisbury.—(Received November 7.)*

[Telegraphic.]

WASHINGTON, *November* 7, 1888.

The American newspapers of to-day publish your lordship's dispatch to Lord Sackville of 27th October.

Lord Sackville denied accuracy of interview referred to by Mr. Phelps in a private letter to Secretary of State, a copy of which was forwarded on the 31st ultimo by post to the foreign office.

No. 4.

*Lord Sackville to the Marquis of Salisbury.—(Received November 8.)*

WASHINGTON, *October* 30, 1888.

MY LORD: With reference to my telegram of this day's date, I have the honor to inclose copy of a note addressed to me by the Secretary of State informing me that the President of the United States has become convinced that, for causes known to myself and to Her Majesty's Government, my present official position in the United States is incompatible with the best interests and detrimental to the relations of both Governments, and transmitting at the same time to me my passports.

I have, etc.

SACKVILLE.

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[Inclosure in No. 4.]

*Mr. Bayard to Lord Sackville, October* 30, 1888.

(Omitted here, being printed *supra*, No. 6.)

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No. 5.

*Mr. Herbert to the Marquis of Salisbury.—(Received November 8.)*

[Telegraphic.]

WASHINGTON, *November* 8, 1888.

I have the honor to inform your lordship, with reference to my telegram of the 6th instant, that the Secretary of State has acknowledged my note, and expressed his readiness to enter into official communication with me.

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No. 6.

*Lord Sackville to the Marquis of Salisbury.—(Received November 11.)*

[Extract.]

WASHINGTON, *October* 28, 1888.

I have been accused by the United States Government of having, as a foreign representative, endeavored to interfere in the domestic politics of the country by writing the letter copy of which was inclosed in my dispatch of the 26th instant.

That letter was, as your lordship is aware, written under the impression that it was to be considered a private communication, and can not, I venture to think, be construed in the sense which has been given to it by unscrupulous political wire-pullers. But I submit to your lordship that the action of the United States Government in the matter can scarcely be justified under the circumstances of the transaction, which are well known to them and admitted by them.

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No. 7.

*Lord Sackville to the Marquis of Salisbury.—(Received November 12.)*

WASHINGTON, *October* 31, 1888.

MY LORD: With reference to my telegram of to-day's date, I have the honor to inclose to your lordship herewith printed copies as published in the newspapers of the statement made by the Secretary of State, giving the reasons for the step taken by the President in sending me my passports.

As I had the honor to state to your lordship this day by telegraph, this statement is an unjust attack upon my integrity, which I repudiate.

He states that after the publication of my letter I received "the representatives of

the press, and in frequent interviews with them, intended for publication, added to the impugnment already made of the good faith of this Government;" and he goes on to say that although he has called my attention to them, I abstained from making any modification or disavowal of them through the channels in which the statements first found publicity.

In my dispatch of the 26th instant I reported to your lordship my disclaimer to Mr. Bayard of any thought or intention of interfering in the domestic politics of the country, which he had accepted.

At a subsequent interview he alluded to remarks which I was reported to have made to a newspaper reporter impugning the action of the Executive, and I again emphatically disclaimed the meaning to my words by a newspaper reporter, and immediately wrote him a private letter, copy of which is inclosed. I conceived that it was to him alone that I could look for a proper appreciation of my conduct, and not to the public press. I felt that I had done nothing of which to be ashamed, but had been simply basely betrayed into an indiscretion, a situation which he himself had fully recognized, and appeared at the time to appreciate in a conciliatory spirit.

The exigencies of the campaign, however, and the necessity of gaining the Irish vote were paramount, and after all that had passed between us, Mr. Bayard does not hesitate to impute motives to me which had no existence, and which I had formally repudiated, and to make them the cause of what I venture to think your lordship will consider, under the circumstances, an almost unprecedented step on the part of the Executive Government.

I have, etc.,

SACKVILLE.

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[Inclosure 1 in No. 7.]

*Lord Sackville to Mr. Bayard.*

Personal.] WASHINGTON, *October* 27, 1888.

DEAR Mr. BAYARD: Referring to an interview which is reported in the New York Tribune of the 24th instant, I remark that my words are so turned as to impugn the action of the Executive. I beg to emphasize that I had no thought or intention of doing so, and I most emphatically deny the language which is attributed to me by other papers of "clap-trap" and "trickery," as applied to the Government to which I am accredited. My record here has been, I trust, such as to preclude the possibility of my having used such language, but I must, I suppose, succumb to the consequences of having been made a victim to an infamous plot.

I have, etc.,

SACKVILLE.

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[Inclosure 2 in No. 7.—Extract from the New York Tribune of October 31, 1888.]

*Report of the Secretary of State to the President, October* 29, 1888.

(Omitted here, being printed *supra*, No. 5.)

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No. 8.

*Mr. Herbert to the Marquis of Salisbury.—(Received November* 20.)

WASHINGTON, *November* 9, 1888.

MY LORD: I have the honor to transmit a statement by Lord Sackville in connection with the publication of his private letter to Murchison.

I have, etc.,

MICHAEL H. HERBERT.

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[Inclosure in No. 8.]

*Statement of Lord Sackville in connection with the publication of his private letter to Murchison.*

I was induced to believe the Murchison letter genuine, as it came from California, where I knew there were many English domiciled as well as naturalized.

Under these circumstances, and as secrecy and privacy were promised in the letter, I conceived that no harm could result from describing the situation created by the

retaliatory message of the President, which was generally regarded at the time as an act of hostility to Her Majesty's Government likely to produce international complications.

Certain it is that my answer to the Murchison letter fell into the hands of persons who used it for the purpose of making it appear that President Cleveland was under English influence, and in consequence to influence the Irish vote against him. In my interview with Mr. Bayard after the publication of my letter, he characterized the incident as a "campaign trick," and after having accepted my complete disclaimer of any intention to impugn the action of the Executive, he proceeded to inveigh in strong language against those who employed such means to influence the Irish vote.

This interview took place on the 26th instant, and I had then no reason to suppose that the matter had gone further than the communication to Mr. Phelps of what had occurred, and I left Mr. Bayard under the impression that it would drop. As I was leaving, he said that he had seen in the newspapers a report of what I had said to a newspaper reporter, and thought it would be well if I could deny the accuracy of it. I said that I would do so, as I never intended that any such meaning should be attached to my words. On returning home I immediately wrote him the private letter, copy of which was inclosed in my dispatch of the 31st ultimo, and I heard no further from him until my passports were sent to me on the 30th.

But, although in possession of my letter, Mr. Bayard says in his statement of the reasons for sending me my passports that although ample time and opportunity had been given me for the disavowal, modification, or correction of statements to which he had called my attention, I had not done so through the channels in which they had found publicity, meaning, of course, newspaper reporters. But I considered that, after having written to him disclaiming the meaning attached to my words, any communication through the newspapers would have been undignified and would have met with the disapproval of Her Majesty's Government; and for this reason I refrained from making any communications through such channels. Mr. Bayard's statement, therefore, appeared to me to be an unjust attack upon the integrity of my conduct after what had passed between us, and after I had done all I could in the sense which I understood he desired, to mitigate the effect which the unjustifiable publication of my letter was intended to create. I was all along ignorant of the precise grounds upon which my removal was sought and of the nature of the communications made by Mr. Phelps to Her Majesty's Government, but I presumed that time would have been allowed me to explain the situation and for Her Majesty's Government to pronounce upon it. But party exigencies overruled international comity. Telegrams were being received at the White House to the effect that the Irish vote in New York was slipping away from the Democratic ticket, and that immediate action was necessary on the question of my dismissal in order to conciliate it. This action, involving as it did a want of courtesy which I venture to think is unprecedented in the history of diplomatic intercourse, was taken on the 30th without any intimation to me from Mr. Bayard that the situation had in any way changed since I had seen him on the 26th, when he had accepted my explanations and had said that he bore me no ill-will. The question at issue, moreover, had never assumed an international character as far as I was aware until the moment it was decided to send me my passports, when all adjustment was rendered impossible, and an incident which concerned me personally was thus at once made the cause of serious complications with Her Majesty's Government.

SACKVILLE.

WASHINGTON, *November* 8, 1888.

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No. 9.

*Mr. Phelps to the Marquis of Salisbury, December* 4, 1888.

(Omitted here, being printed, with inclosures, *supra*, inclosures in No. 14.)

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No. 10.

*The Marquis of Salisbury to Lord Sackville.*

FOREIGN OFFICE, *December* 8, 1888.

MY LORD: I have received and laid before the Queen your lordship's dispatches of the 26th, 28th, 30th, and 31st ultimo, reporting the circumstances which had caused the United States Government to terminate your mission as Her Majesty's representative to the Government of that country.

Your lordship is aware that I have been in communication on this subject with Mr. Phelps, and, for convenience of reference, I inclose the papers on the subject which have been laid before Parliament.

I have now received a further letter from Mr. Phelps explaining the views of the United States Government in the matter, a copy of which is inclosed, for your information; and I request that you will have the goodness to furnish me with any observations you may have to make thereon.

I have, etc.,

SALISBURY.

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No. 11.

*The Marquis of Salisbury to Mr. Phelps, December* 24, 1888.

(Omitted here, being printed *supra*, inclosure 1 in No 15.)

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[Inclosure in No. 11.]

*Lord Sackville to the Marquis of Salisbury, December* 13, 1888.

(Omitted here, being printed *supra*, inclosure 2 in No. 15.)

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No. 12.

*Mr. Phelps to the Marquis of Salisbury.—(Received December* 31.)

LEGATION OF THE UNITED STATES,
*London, December* 28, 1888.

MY LORD: I have had the honor to receive your lordship's note of the 24th instant relating to the termination of the mission of Lord Sackville, late minister from Her Majesty's Government to the United States, and I have transmitted the same to my Government for its consideration.

I have, etc.,

E. J. PHELPS.

# SUPPLEMENT B.

*Papers relating to the treaty of extradition, signed June 25, 1886, by the plenipotentiaries of the United States and Great Britain.*

*LIST OF PAPERS.*

1. Mr. Phelps to Mr. Bayard. No. 143. November 23, 1885.
2. Mr. Phelps to Mr. Bayard. No. 307. June 26, 1886.

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## No. 1.

### *Mr. Phelps to Mr. Bayard.*

No. 143.] LEGATION OF THE UNITED STATES,
*London, November* 23, 1885. (Received December 7.)

SIR: Referring to your dispatch No. 73, of August 4, 1885, touching the proposed extradition treaty between the United States and Great Britain, I have the honor to say that I have recently had an interview with Lord Salisbury for the purpose of renewing the negotiations on the subject; and I have in the mean time been engaged in a careful examination of the draught of the treaty transmitted to me from the Secretary of State with the dispatch No. 73, and of the instructions that accompanied it.

There appear to me to be objections to some of the provisions proposed in this draught, as well as to some of those that seem to have been agreed on in the negotiations that took place under the administrations of former Secretaries of State; and I feel it my duty respectfully to suggest these objections for the consideration of the Department before taking definite ground with the British foreign office in respect to the provisions to which they apply.

I. Article II of the draught referred to enumerates the crimes for which extradition is to be granted. Among them is included No. 6, "Obtaining by false pretenses money or goods of the value of $50, or £10, and upwards."

I would suggest that this offense be omitted from the article.

(1) It is not, so far as I am aware, included in any of the numerous extradition treaties existing between the United States and other nations. I can perceive no special reason for its insertion in a treaty with Great Britain.

(2) It is a crime that is very difficult of the exact definition that ought to apply to all extradition crimes. It receives different definitions in different jurisdictions, and is likely to give rise to vexatious and doubtful questions on the point whether the facts relied on are really criminal or only fraudulent.

It is created by statutes that vary widely in different States. The British extradition act of 33 and 34 Victoria, which applies to all exist-

ing extradition treaties of that country, provides that this crime, among others, "is to be construed according to the law existing in England, or in a British possession," as the case may be, "at the date of the alleged crime, whether by common law or by statute made before or after the passing of this act." In respect to an offense of which the character may differ so materially under the provisions of different statutes it would not be satisfactory to the United States Government, nor would it be just that extradition should take place in cases made criminal by English law and not in those made criminal by American law. Yet, if resort is had to American law to define a crime that depends altogether upon statute provisions for its existence, to the statutes of what State among the thirty-eight is it to be made? There is no United States statute on the subject. If it be said that upon an application by the United States for extradition the law of the State in which the offense was committed shall govern, which law is to govern where the application is made by Great Britain? If such a case is to be determined by the law of the State in which the arrest is made and the hearing is had, then a man may be liable to extradition if arrested in one State but not if arrested in another.

(3) This offense, though sometimes punished as felony by statute, is usually not above the grade of a misdemeanor. Aggravated cases may of course occur, but the general average of cases does not amount to felony. It seems to me that any crime less than felony is below the dignity of an extradition treaty or of international proceedings.

(4) The claim of extradition for this offense is one very likely to be abused to answer private purposes.

The charge is frequently resorted to by creditors as a means of obtaining payment from insolvents for goods sold on credit. Of course the credit is granted under the belief that the debtor is solvent; but little straining of the facts is necessary in many cases to establish a plausible claim that such belief was induced by the fraudulent representations or practices of the buyer. Most courts of justice are familiar with cases of this description.

It is certainly most undesirable that an extradition treaty should offer opportunity for such enterprises.

II. The same observations apply with increased force to so much of clause 21 in Article II as includes the offense of "receiving any chattel, money, valuable security, or other property of the value of $50, or £10, and upwards, knowing the same to have been obtained from the owner by * * * false pretenses."

I am not aware that any such offense is known in criminal law. It may, perhaps, be created in some States by statute, but I think it is not known in most States. It could, in no event, be more than a misdemeanor. The difficulty of defining the crime of obtaining by false pretenses, and the liability to abuse of the charge, is much increased when it is thus attempted to be carried to the second degree.

Of course the latter offense should be omitted from the treaty if the former is; and I think it should be omitted even if the former is included.

It is also to be remarked in respect of both these offenses that they are of the same class, and stand upon very analogous ground with that of "fraudulent bankruptcy," which the British Government have proposed to include in the treaty, and which the State Department has instructed me (in my judgment most wisely) to object to. I think the objections to the inclusion of that offense are much weakened when these are introduced, and much strengthened by their exclusion, because

all I have said in respect of these crimes is equally applicable to that of fraudulent bankruptcy.

III. Article II also includes in the list of extradition crimes the offenses: No. 10, "abduction;" No. 12, "kidnapping."

I suggest the omission of these offenses. The objections to their insertion are similar to those already stated in respect to the offenses previously considered.

(1) What is legally understood by "kidnapping" or "abduction" it is very difficult to state. These terms have no recognized common-law definition, and vary very widely under different statutes in respect to the facts on which they depend. In the criminal law of some States they are probably unknown.

(2) Unless in extreme cases they must be classed, when the offense is made out, as misdemeanors only.

(3) They are charges commonly made in the progress of private controversies among litigants. The term "kidnapping" is most frequently applied to arrests that are claimed to be illegal. That of "abduction" is often used as substantially equivalent to seduction, and quite as often refers to the efforts of parties in divorce suits to obtain from each other possession of children in contempt of judicial orders.

(4) The United States has no other treaty of extradition in which either of these crimes is included, except that in the treaties with Mexico and Peru "kidnapping" is made an extradition offense, defined in their language as "the taking and carrying away of a person" [or "a free person"] "by force or deception," a definition that would embrace almost any case of actionable false imprisonment.

(5) Finally, it is to be observed that the crime of "child-stealing," that would include many of the most aggravated cases of "abduction" and "kidnapping," is also included in the treaty.

IV. Article II concludes with these words: "The extradition is also to take place for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both contracting parties."

(1) The term "participation" seems to me to be obscure. It is not a legal term as describing a criminal offense. In case of misdemeanors, if such are to be included, no participation is criminal short of the commission of the offense itself.

In cases of felony there may be accessories as well as principal. If the participation in the crime without being a principal amounts to being accessory, it should be so described; if it does not, it is not criminal.

(2) The phrase "laws of both contracting parties" seems also obscure.

The contracting party on the American side is described in the treaty as being the United States of America. The United States statutes create but few of the offenses included in the treaty. The laws of the thirty-eight States differ widely from each other as to some of these offenses. What law is intended? And if the law of any State in aid of which extradition is demanded is intended, what law controls when the extradition is demanded by Great Britain?

I think it may be safely assumed that by the laws of Great Britain and of all the States the being accessory to a felony is punishable. And that neither government would seek to excuse itself from the extradition of an accessory upon the ground that under its laws the being accessory to a felony is not a crime; and I presume that only crimes of the grade of felony are intended to be included in the treaty.

Would not the purpose of this clause be better answered by adding to the list of crimes the following: "23. The being accessory to any of the crimes" [or any of the "felonies"] "specified in this article."

V. Article III concludes with this clause:

Neither Government shall be required to grant extradition for an offense of which, as it is stated or described in the demand for extradition, it has jurisdiction.

This clause is not contained in the British draught, but it is proposed by the United States. A previous clause of the same article provides that if the person claimed for extradition "have already been tried and acquitted or convicted, or be still held for trial in the United States or in Great Britain respectively, for the same crime for which his extradition has been demanded, his extradition shall not take place."

The question then arises, whether if the country from which the person is claimed has not tried him and does not propose to try him for the crime, the mere fact that it has jurisdiction to try him should exempt him from extradition? I think it should not.

There are many cases in which, while the legal jurisdiction to try may be in both countries, the proof necessary to convict is only in one. Rarely can such proof be found in both. There is no means of compelling the attendance of witnesses from a foreign country, nor can their testimony, taken abroad, be used in a criminal case. In all such instances there must necessarily be a failure of justice if there can be no extradition. Nor is it infrequent that local or political sympathy prevents any attempt at a prosecution in one jurisdiction for a crime that in the other would be promptly punished.

It would seem to be but just that a country in which a criminal from another country takes refuge, where both have jurisdiction to try him, should either try or surrender him, if the offense is within the treaty and his extradition is demanded.

If in such case he be not actually held for trial where the claim for extradition is made, a prosecution could still be instituted instead of granting the extradition, if the authorities should find such course advisable.

VI. Article VII provides as follows:

A fugitive criminal surrendered by or to either of the contracting parties for trial for the offense named in the extradition warrant, may be tried for any other of the crimes or offenses committed prior to his extradition enumerated in Article II.
Provided, etc.

I earnestly advise that Article VII be stricken out.

No nation ever agreed to an extradition treaty under which a criminal should be surrendered upon the mere demand of another nation, unaccompanied by *prima facie* evidence of guilt, and without examination of the case by the judicial authorities of the nation on which the demand is made. A proposition for such a treaty would be universally scouted. Yet that is precisely the result of the provision in this article, in respect to any case to which it applies.

The proposed treaty contains in its Article II a long list of crimes for which extradition may be granted, varying widely in magnitude, and having no relation to each other.

A proper case for extradition may be made in respect to any one of these crimes, perhaps a minor one, and after due examination before the court or upon *habeas corpus* as to the probable foundation for the charge, the alleged criminal is surrendered. Instead of bringing him to trial on the charge for which he is extradited, he is indicted and tried for an altogether different offense, concerning which no evidence

has been offered to the nation which surrendered him, and no examination before its courts has taken place. The man may thus be brought to trial for a crime for which his extradition could never have been obtained if it had been demanded.

Another consideration adds greatly to the force of this suggestion. Articles V and VI contain very stringent provisions that no extradition shall take place for any political offense, and no trial for such an offense where extradition has been had for another offense. These provisions necessarily assume that some of the crimes included in the treaty and for which extradition may be claimed under it may turn out to be political offenses. Whether they are so or not in any given case is a point on which a wide difference of opinion and a heated state of feeling may, not improbably, occur. It is easy to see that such cases are not unlikely to arise hereafter between Great Britain and the United States. If in such an instance extradition of a man should be obtained for one crime and he should then be proceeded against for another, claimed in the country from which he was surrendered to be political, and not admitted to be such in that by which he is demanded, very disagreeable complications might arise.

Article V of the treaty expressly provides that whenever a question arises whether an alleged offense is political or not, "the decision of the authorities of the government in whose jurisdiction the fugitive shall be at the time *shall be final.*" But the provisions of Article VII transfer the decision of this question from the government surrendering the fugitive to the government to whom he is surrendered in all cases to which this article applies—that is, whenever the extradition is for one offense, and the trial is sought to be had for another.

The further proviso in the article that time shall be afforded for "remonstrance" in such case by the government which has surrendered the fugitive does not appear to me to meet the difficulty. Such a government has the right, and ought to reserve it, to decide the question for itself before making the surrender—not to make the surrender, and remonstrate against the consequences. In the heat and pressure engendered by the particular case, and especially under an inflamed state of public feeling, may not be found the favorable occasion for the consideration of remonstrances, or the harmonizing of conflicting views. What may easily be agreed on in a treaty, in the abstract, might be found very difficult to adjust in the concrete case.

On the other hand, I can see no reason for the inclusion of this provision. It is certainly but just and fair to require the government which asks the extradition of a fugitive to specify the offenses and all the offenses for which it is proposed to try him. Good faith and fair dealing would seem to demand it. That is the sure way to avoid dispute. The case must be rare indeed, if any, in which this can not be done.

No other treaty of the United States, so far as I know, contains such a provision. The English extradition act (33 and 34 Vict.) is directly to the contrary.

I do think this article would endanger the ratification of the treaty in the Senate as well as the legislation in Congress and in Parliament necessary to carry it into effect.

If Article VII should be retained in the treaty, I respectfully suggest the omission from it of these words now contained in the draught:

In order that the government that shall have made the surrender may be assured that the provisions of the treaty are not about to be violated, or that it may remonstrate against the person so surrendered being held for such further trial, if, in its opinion they are about to be violated.

It seems to me hardly to consist with the dignity of either government to anticipate in the terms of the treaty that a violation of it may be looked for or needs to be provided against. Should it not be assumed that whatever the treaty stipulated will be carried out in good faith?

The sixty days' notice of the intention to try the fugitive for a different offense from that for which he was extradited being provided for, which affords the opportunity for remonstrance upon any grounds deemed material, it would seem unnecessary to suggest the reasons that may induce the remonstrance, or to state in terms why the opportunity is given.

VII. Article VIII contains the following clause:

> An indictment against the accused found by a court having jurisdiction will afford a *prima facie* case to sustain the demand for extradition, subject to rebuttal by proof of *alibi*, or of the non-identity of the defendant, or want of jurisdiction.

I would suggest upon this article either: (1) That the whole of the sentence be omitted; or (2) that the conclusion of it, commencing with the words "subject to rebuttal," etc., be stricken out.

If the whole clause above quoted be omitted, it will leave the law on the subject of the evidence necessary to sustain a claim for extradition where it now is, and as it has been administered by the courts on both sides ever since an extradition treaty has existed between the countries.

I am not aware that any difficulty on this point has ever arisen. Such would still remain the law, even if this clause is inserted, in cases where the claim for extradition is made before the finding of an indictment. But if it be desired to make the finding of an indictment in a competent court a sufficient ground for extradition without the production of any further evidence in support of the charge, I think it should be so provided without the added provision for a rebuttal by proof adduced for the defense.

If this clause is retained, the court will be compelled to hear evidence from the respondent to sustain the defense of *alibi* or non-identity. If obliged to hear such evidence, it necessarily follows and is implied that the decision must be according to the weight of the evidence. And that if the defense is made out upon the evidence before the court, the respondent must be discharged.

The result is that, as the indictment which constitutes the case on which the claim for extradition is made is found by a grand jury in one country upon the *ex parte* testimony for the prosecution, the determination of the question whether that claim shall be allowed will be had in the courts of the other country on the *ex parte* testimony for the defense.

If to avoid this consequence evidence in support of the indictment must be furnished, then nothing would appear to be gained by making the indictment *prima facie* sufficient.

I think there is a very serious objection to imposing upon the courts by an arbitrary rule the necessity of hearing evidence from the respondent in support of such defenses as *alibi* and non-identity. They are peculiarly questions that can not be fairly tried in a foreign country where prosecuting counsel can not attend, evidence by witnesses can not be produced, testimony for the defense can not be rebutted, nor even cross-examination adequately conducted. A trial has just terminated here in which the evidence for the prisoner to support these defenses of *alibi* and non-identity was such as, if it had been heard *ex parte*, must inevitably have resulted in his discharge. Yet he was convicted on the trial by the establishment of his guilt beyond all question.

The present law on the subject leaves the whole matter to the sound discretion of the courts. Evidence for the defense is not necessarily excluded nor necessarily received. The judge is left at liberty to determine on the whole case how far he will or will not enter upon the trial of such questions.

I can see no reason why an indictment on which a respondent would be compelled to go to trial in the country where the offense occurred should not be sufficient ground for a claim for extradition. Faith and credit enough for this should surely be accorded by each country to the judicial proceedings of the other. But if this is not agreed to, then I should think it better to leave all cases on the same footing and to require in all the measure of proof so well stated in the already existing treaty on this subject between the two Governments—

> such evidence of criminality as according to the laws of the place where the fugitive or person so charged shall be found would justify his apprehension and commitment for trial if the crime or offense had there been committed—

leaving it to the courts to administer on this point the common law that has grown up by more than forty years' experience, without hampering them by further enactments or compelling them, on the question whether a respondent shall be held for trial, to pass *ex parte* upon issues which only such a trial could properly determine.

The clause which allows proof to be offered of "want of jurisdiction" in the court in which the indictment is found is probably the result of an oversight. The article previously requires that the indictment on which the claim for extradition is based must be "found by a court having jurisdiction." Such jurisdiction must therefore affirmatively appear.

I trust these observations—unavoidably lengthy, yet still much too brief to exhaust what might be said in support of them—will not be deemed out of place or in any respect captious. They are the result of much and anxious consideration of the subject. I beg to commend them to your consideration, more especially as I am aware that this unfinished treaty of which the original draught was prepared by the British Government was inherited by the present from a past administration, and that time has been too short and engagements too pressing to admit of much examination of it since you took charge of the Department of State.

I need not add that whatever your conclusion may be, whether in accordance with my own views or not, my best exertions will be addressed to the effort to carry it into effect.

The foregoing suggestions are offered as applicable to the continued negotiation of a treaty substantially in conformity to the draught I have had the honor to receive.

I ask leave now to bring to your attention a proposal of a different character as an intermediate and provisional measure.

A pressing necessity is undoubtedly felt by both Governments for an immediate extension of existing extradition arrangements so as to include certain offenses that are becoming frequent and that are much encouraged by the present facilities for escape. If these offenses were within the provisions of the treaty of 1842, now in force, probably no further treaty on the subject would be thought necessary.

It appears to me clear that the proposed draught now under consideration can not by any exertion be matured, agreed to, and ratified without very considerable further delay. Its consideration is constantly interrupted and put aside in England by the many pressing and critical

matters that are recurring, and are likely to recur, so rapidly. The treaty, as drawn, is so elaborate in its provisions, really presenting a complete code of both law and procedure in the matter of extradition, that very numerous points of discussion are presented, all of which require to be carefully considered, and in respect of some of which a serious difference of opinion exists. The negotiation has already occupied nearly nine years, and the advances that have been made toward an agreement on the disputed points are as yet very small.

After the treaty shall have been executed, it must still be ratified by the Senate. I can not doubt that the criticisms already suggested, and perhaps many others, will occur to members of that body, and may probably give rise to discussion and to grave differences of judgment.

Should the treaty be ratified, legislation must still be obtained from both Congress and Parliament in order to carry it into effect. Reasons which need not be suggested make the present, as it seems to me, a singularly unpropitious time for attempting to deal with the subject in either of these bodies. Certain provisions of the treaty are almost sure to attract opposition in certain quarters. And the numerous points presented by so elaborate a system offer great opportunities for attack.

It is further to be observed that all this delay, past and prospective, arises upon topics that are altogether subordinate to the principal objects sought to be accomplished. So that while there has never been any dispute or hesitation between the two Governments in respect to these main and urgent points, the provision for them is indefinitely postponed, to the great detriment of public justice, by the discussion of minor questions that never would have arisen at all but for the opportunity afforded by the making of a new treaty.

Pressed by these considerations, I venture to suggest, as an intermediate and altogether unobjectionable remedy, that it be proposed to the British Government, by a short article supplementary to the treaty of 1842, to extend its extradition provisions so as to comprehend the more important and material offenses not already included in them. And I beg leave to submit herewith for your examination a draft of such supplemental agreement.

For this method of treaty stipulation there are abundant precedents.

I thought it not improper, in the interview with Lord Salisbury before mentioned, to ascertain informally whether such a proposal, if made by my Government, would be acceptable to Her Majesty's Government. The suggestion was very promptly accepted by his lordship, who quite concurred in the opinion that under the circumstances it is the most advisable course to adopt, pointing out at the same time that the execution of such an article need not prevent the continuance of the effort to mature a more elaborate treaty, which, when ratified, would by its terms annul and supersede both the extradition clauses of the present treaty and the proposed supplement.

I have every confidence, therefore, that, if you should think proper to authorize it, I can procure the immediate adoption of such a supplemental agreement.

There could not be, I think, any question of its prompt ratification by the Senate, as it does not change in any respect the existing law on the subject, and only adds to the number of extraditable offenses already provided for two or three which, it is universally admitted, should be included without delay.

No legislation whatever on the part of Congress would be necessary to carry this arrangement into effect, the existing laws being ample for

that purpose, as will be seen by reference to the act of Congress (Revised Statutes, Title LXVI).

And almost no legislation would be required from Parliament, an act of a few lines adding to the schedule of extradition offenses now contained in the acts of 33 and 34 Victoria being all that would be needed.

The result would be that the public interest has immediately the benefit of the most that is sought to be effected by a new treaty, without any prejudice to the effort to substitute, if thought desirable, one that might be more perfect in detail and subordinate provisions, when it can be deliberately and carefully perfected. But I may perhaps take the liberty to add, upon this point, that, so far as my own opinion is concerned, I should much prefer a treaty expressed in the concise and general, yet clear and explicit terms in which this subject is dealt with in the Webster-Ashburton treaty of 1842, than such a draft as that proposed by the British Government, and which has so long been under unavailing consideration.

The difference between the two is strikingly illustrated by actual experience.

Under the treaty of 1842, now forty-three years in force, no claim for extradition on either side, so far as I can learn, has failed of accomplishment in any proper case properly presented. No practical difficulty has been encountered by the courts of either country in carrying the provisions of the treaty into effect. And no difference has occurred between the two Governments arising out of any case of extradition, except on the single question as to the right to extradite a fugitive for one offense and to try him for another. In short, the treaty has completely and harmoniously answered its purpose. Surely this history does not disclose the necessity for any alteration of the existing law otherwise than to extend its provisions to certain offenses which since the adoption of that treaty have become frequent and flagrant.

With France, on the other hand, Great Britain has had during a part of the same period (from 1852 to 1866) an extradition treaty of a most elaborate character, very similar to the draft now proposed to us. But it remained a dead letter because the requisite legislation could not be obtained from Parliament, its numerous details raising so many questions and encountering so many objections that the bill introduced for that purpose had to be abandoned.

After fourteen years had elapsed, during which no surrender of a fugitive to France had been obtained, though many had been demanded, the treaty was terminated by notice from the French Government in accordance with its stipulations.

I am quite unable to perceive what is the advantage of encumbering a treaty of this character with rules of evidence, methods of procedure, and special conditions and limitations. If these are not enacted into the law of both countries, the treaty does not go into effect. If they are so enacted, then they need not be set forth in the treaty. If the treaty is in general terms, simply expressing the agreement, any statute regulating extradition on either side, not inconsistent with it, is sufficient to make the treaty operative, and can at any time be amended if found necessary. But if all these details are made a part of the treaty, then no legislation that does not exactly conform to it is available. Thus, as I have pointed out, the British extradition act, which has made the simple words of the American treaty completely effectual, has left the elaborate treaty with France incapable of any effect at all.

But even if it be assumed (as I think it can not safely be assumed) that acts of Congress and of Parliament can be obtained in precise conformity

with all the special provisions of the proposed draught, I must still believe that the form of the treaty now in force is much the more desirable. In a treaty, as in all other contracts, courts of justice will always find means to carry into effect clearly expressed intentions. But where an excess of caution adds to the expressed agreement special methods of procedure and attempts to anticipate the various emergencies that may arise, cases otherwise easy of solution are made to bristle with points for litigation.

Under the old treaty a system of legal administration has grown up that is now understood by courts, counsel, and magistrates. If not altogether perfect, it shares that defect with all other systems of law that have yet been devised. It has worked well enough for many years. Why should we change it? It seems to me that only necessity can justify the alteration of well-settled law. All judicial experience shows that the most promising theories of legal remedy are often the most unfortunate in practical results.

This point, however, as I have remarked, does not require present determination. The immediate question is not whether the treaty of 1842 shall ultimately be superseded by a new one, but whether pending the consideration of that subject, which is likely to be protracted, the provisions of that treaty shall be extended to cover the existing necessity. Such an extension would not embarrass the negotiation of a further treaty. And to that negotiation, if it be thought expedient, I shall contribute my best endeavors.

I have, etc.,

E. J. PHELPS.

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[Inclosure in No. 143.]

*Draught of a proposed convention supplemental to the treaty between the United States of America and Her Britannic Majesty, concluded on the 9th day of August, 1842.*

[Title—Introduction in usual form.]

Whereas a treaty between the United States of America and Her Britannic Majesty was concluded on the 9th day of August, 1842, whereof the 10th article makes provision for the giving up of criminals, fugitives from justice, in certain cases:

And whereas it is now desired by the high contracting parties that the provisions of the said article be extended so as to embrace certain offenses not therein specified:

It is now hereby agreed and declared as follows:

ARTICLE I.

The provisions of the said tenth article in the said treaty shall be and are hereby extended so as to apply to and comprehend the following additional crimes not mentioned in the said article, amely: (1) Manslaughter. (2) Embezzlement, or larceny of the value of fifty dollars, or ten pounds and upwards. (3) Malicious destruction of, or the attempt to destroy, railways or trains, bridges, public edifices, or dwellings, where the act endangers human life. And that the provisions of the said article shall have the same effect in respect to the delivery up of persons charged with either of the said crimes as if the same had been originally named and specified in the said article.

ARTICLE II.

The terms of this convention shall not apply to either of the offences herein named, which shall have been committed previous to the date when this convention shall come into force.

ARTICLE III.

No fugitive criminal shall be surrendered under the provisions of the said treaty, or of this convention, if the offence in respect of which his surrender be demanded be one of a political character.

ARTICLE IV.

A fugitive criminal surrendered to either of the high contracting parties for trial under the provisions of the said treaty, or of this convention, shall not be tried for any other crime, committed before his extradition except those specified in the extradition warrant, unless an interval of sixty days shall have elapsed between his being set at liberty in respect to the charge upon which his surrender shall have been made and his arrest for any other crime.

ARTICLE V.

This convention shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the high contracting parties. And it shall continue in force until one or the other of the parties shall signify its wish to terminate it, and no longer.

NOTES IN RESPECT TO THE FOREGOING DRAUGHT.

(1) Only four offences are provided for in addition to those already in the treaty. In a more elaborate treaty perhaps others may be usefully added—perhaps not; but the suggestion of one will probably bring from the other side the suggestion of others. The delay of the discussion reproduces all the mischief this convention is designed to avoid and affords ground for opposition, or at least delay, in the ratification of the treaty by the Senate.

It seems to me best to provide only for the main offences most necessary to be dealt with, and in respect to which no question or hesitation can arise.

(2) For the same reason, other provisions that might perhaps be useful are omitted, and also to obviate the necessity of additional legislation.

(3) Article II is usual in extradition treaties to avoid giving them an *ex post facto* operation.

(4) Article III might be well enough omitted. The rule therein stated is universally conceded and enforced and need not be stated in a treaty. The absence of it, however, might occasion opposition or cavil, and it does no harm to include it.

(5) Article IV might be well enough ommitted, which would leave the rule as it now stands under the treaty of 1842. But the British extradition act, under which all proceedings are had in this country for the surrender of fugitives, expressly provides that no surrender shall be made to any country where laws do not provide against the trial of a criminal for another offence than that for which he is extradited.

This provision may, if the question is raised, offer a serious obstacle to obtaining extradition, so long, at least, as the treaty of 1842 is in force. That treaty is silent on the subject, and the question for a magistrate in any particular case is, not what the treaty implies, but what authority he is invested with by the act of Parliament, which in this country is supreme. I understand also that this is the true rule of international law as between nations, unless it is otherwise expressly provided in the treaty.

On the whole, it seems wise to include Article IV as long as the treaty of 1842 remains in force, and, if a different rule is desired, to incorporate it hereafter in a more elaborate treaty.

The great object in this convention is to provide for the important and pressing cases without encountering any delay, discussion, or dispute, and without the necessity of additional legislation on either side.

(6) Article V is taken from the treaty of 1842 and makes the duration of the convention the same as of that treaty.

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## No. 2.

### *Mr. Phelps to Mr. Bayard.*

No. 307.] LEGATION OF THE UNITED STATES,
*London, June* 26, 1886. (Received July 7.)

SIR: I have the honor to transmit herewith the convention signed by me on behalf of the United States, and by the Right Honorable the Earl of Rosebery, minister of foreign affairs, on behalf of Her Majesty's Government, extending the provisions of the tenth Article of the Treaty

of August 9, 1842, between the United States and Great Britain, relative to the extradttion of persons charged with crime.

I advised you by telegram of the 25th instant of the execution of this convention.

It conforms in all substantial particulars so nearly to the form heretofore prepared by me, and submitted to the Department of State for consideration, and of which your approval was expressed, that I have not deemed it necessary or desirable to incur the delay, at this late period in the session of Congress, of sending it to you for further examination before signing. And it has been impossible for me, under the existing condition of public business here and the long discussion upon minor details that has taken place, to bring the matter to an earlier conclusion, though I have made every exertion to that end.

The convention is so short, and its terms will, I hope, be found so perspicuous, that but little explanation seems to me requisite; though to overcome the scruples of some of the officers of Her Majesty's Government, I have consented to add two or three clauses, which, though quite unobjectionable, are, in my judgment, unnecessary. But as the convention as finally concluded is in all its material provisions in accordance with my own views as approved by you, I regarded those concessions as judicious.

I add a few suggestions on the various clauses:

(1) It will be observed that the provisions for extradition are extended to persons convicted of the crimes specified in the treaty, as well as to those charged before trial with the commission of them. This seems to me a very desirable addition. If those accused of crime should be surrendered in order to be tried and punished, much more should those actually convicted of the same crimes, but who have escaped punishment by flight, be sent back to undergo the sentence of the law.

(2) But four additional crimes are added by this convention to the seven specified in the treaty of 1842. It is not intended to be asserted that there may not be other offenses proper to be included in an extradition treaty. These are the principal and most flagrant ones. A large class of crimes, justly punishable by law, are, in my judgment, not only beneath the dignity of a treaty between nations, but having different definitions and degrees under different statutes, are likely, if embraced in such a treaty, to be fruitful of controversy in its practical application. The attempt to enlarge the list of crimes encounters such a variety of conflicting claims on the one side and the other as to render discussion almost endless and agreement extremely difficult. On my accession to office, I found pending between the two Governments a negotiation for a new extradition treaty, which had been going on for nine years without much approximation toward a result. The discussion had been principally in regard to minor offenses and details, a procedure unnecessary, in my judgment, to be included in a treaty, and likely to embarrass its operation. Meanwhile the constant escape of criminals in flagrant cases, in respect to which there could be no dispute, had become a scandal to both countries. I was very glad, therefore, to obtain your approval to the suggestion that these cases be at once provided for by a simple extension of the existing treaty, leaving for after-consideration the question whether a more elaborate one is desirable.

(3) The restriction of the provisions of the convention, so far as the additional offenses are concerned, to those which may be committed after the convention comes into force is one which is usual in treaties of this character, and whether important or not can not, I think, be objectionable.

(4) The provision that no surrender shall be made for a political of fense is unnecessary, because such is already the established and universal rule, to which all extradition treaties are regarded as subject. But its insertion can do no harm, and the omission of it might excite comment.

(5) The clause precluding the trial of a surrendered fugitive for any offence committed prior to his surrender, except that established by the facts on which his surrender was granted, until he shall have had a reasonable opportunity for return has already received your assent. If anything needs to be said in its support, I refer to the elaborate discussion of the subject contained in my dispatch, No. 143, under date of November 23, 1885. I regard this clause not only as right in itself, and as in conformity with the true principles of international law on the subject, but as specially desirable to the United States.

It is further to be remarked that, without the insertion of it or statute enactment to the same effect, no extradition treaty whatever could be made with Great Britain, because the act of Parliament of 1870 directly prohibits the making of such a treaty with any nation unless provision is made by that nation against the trial of a surrendered person for a crime other than that on which his extradition was demanded. I do not think a repeal of this act could be obtained from the British Parliament. It certainly could not at the present time. If, therefore, we were to persist upon the unnecessary, and in my judgment untenable and undesirable, proposition that a man should be extradited for one offense in order to try him for another, we should be unable to establish with Great Britain any extradition arrangements at all.

And I add that, in my opinion, if the objection arising upon the act of Parliament should be seriously pressed in the courts of Great Britain upon a demand for extradition under our existing treaty as it stands, without this convention, and in the absence of any provision such as that contained in this clause, a very serious question would arise whether any such extradition could be granted.

(6) Article VII is in my estimation quite unnecessary, but altogether harmless. No extradition can ever take place, whatever the stipulations of a treaty may be, except under and in conformity to existing legislation for carrying it into effect in the country where the surrender is sought. Omission to provide such legislation, or any statute restrictions inconsistent with the provisions of the treaty, would amount simply to a refusal to carry out the treaty, or to a violation of its terms. This is not to be anticipated in a contract between sovereign powers. But should it unhappily take place the remedy is found in the provisions of this convention copied from the treaty of 1842, by which either party can terminate the treaty by simply giving notice to that effect.

This clause, therefore, only formulates in terms the rule of law that would equally and unavoidably apply, though it were not expressed in the convention.

It is expressly understood on both sides that the adoption of this convention shall not stand in the way of the negotiation of a more elaborate treaty upon the subject, which shall supersede both this convention and the tenth article of the treaty of 1842, if such treaty shall, upon further consideration, be deemed advisable. My own judgment is decidedly against any such attempt, for reasons heretofore clearly presented to you. I think that the treaty of 1842, supplemented by this convention, and by the system of judicial construction and procedure which has grown up under it in an administration of forty-four years, forms an extradition arrangement that is not likely to be improved by attempting to

recast it. But should your opinion be otherwise I shall address my best efforts to obtaining such other or further treaty stipulations as you may deem desirable.

I have, etc.,

E. J. PHELPS.

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[Inclosure in No. 307.]

*Extradition treaty between the United States and Great Britain.*

Whereas by the 10th article of the treaty concluded between the United States of America and Her Britannic Majesty on the 9th day of August, 1842, provision is made for the extradition of persons charged with certain crimes;

And whereas it is now desired by the high contracting parties that the provisions of the said article should embrace certain crimes not therein specified, and should extend to fugitives convicted of the crimes specified in the said article and in this convention;

The said high contracting parties have appointed as their plenipotentiaries to conclude a convention for this purpose, namely: The President of the United States of America, Edward John Phelps, envoy extraordinary and minister plenipotentiary of the United States to the Court of St. James, etc., etc.; and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honorable Archibald Philip, Earl of Rosebery, Her Majesty's principal secretary of state for foreign affairs, etc., etc., who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

The provisions of the 10th article of said treaty shall be and are hereby extended so as to apply to and comprehend the following additional crimes not mentioned in the said article, namely: (1) Manslaughter; (2) burglary; (3) embezzlement or larceny of the value of 50 dollars, or £10, and upwards; (4) malicious injuries to property whereby the life of any person shall be endangered, if such injuries constitute a crime according to the laws of both the high contracting parties; and the provisions of the said article shall have the same effect with respect to the extradition of persons charged with any of the said crimes as if the same had been originally named and specified in the said article.

ARTICLE II.

The provisions of the 10th article of the said treaty and of this convention shall apply to persons convicted of the crimes therein respectively named and specified whose sentence therefor shall not have been executed.

In the case of a fugitive criminal alleged to have been convicted of the crime for which his surrender is asked, a copy of the record of the conviction and of the sentence of the court before which such conviction took place, duly authenticated, shall be produced, together with evidence proving that the prisoner is the person to whom such sentence refers.

ARTICLE III.

This convention shall not apply to any of the crimes herein named and specified which shall have been committed, or to any conviction which shall have been pronounced, prior to the date when the convention shall come into force.

ARTICLE IV.

No fugitive criminal shall be surrendered under the provisions of the said treaty, or of this convention, if the crime in respect of which his surrender is demanded be one of a political character, or if he prove to the competent authority that the requisition for his surrender has in fact been made with the view to try or punish him for a crime of a political character.

ARTICLE V.

A fugitive criminal surrendered to either of the high contracting parties under the provisions of the said treaty or of this convention shall not, until he has had an opportunity of returning to the state by which he has been surrendered, be detained or tried for any crime committed prior to his surrender other than the extradition crime proved by the facts on which his surrender was granted.

ARTICLE VI.

The extradition of fugitives under the provisions of the said treaty and of the present convention shall be carried out in the United States and in Her Majesty's dominions, respectively, subject to, and in conformity with, the laws regulating extradition for the time being in force in the surrendering state.

ARTICLE VII.

This convention shall be ratified, and the ratifications shall be exchanged at London as soon as possible. It shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the high contracting parties, and shall continue in force until one or the other of the high contracting parties shall signify its wish to terminate it, and no longer.

In witness whereof the undersigned have signed the same and have affixed thereto their seals.

Done at London the twenty-fifth day of June, 1886.

[SEAL.] EDWARD JOHN PHELPS.
[SEAL.] ROSEBERY.

# SUPPLEMENT C.

*Papers relating to the seizure of British sealing-vessels in Bering Sea.*

*LIST OF PAPERS.*


No. 1. Sir L. S. Sackville West to Mr. Bayard. September 27, 1886.
No. 2. Same to same. October 21, 1886.
No. 3. Earl Iddesleigh to Sir L. S. Sackville West. October 30, 1886.
No. 4. Mr. Bayard to Sir. L. S. Sackville West. November 12, 1886.
No. 5. Sir L. S. Sackville West to Mr. Bayard. December 7, 1886.
No. 6. Same to same. January 9, 1887.
No. 7. Mr. Bayard to Sir L. S. Sackville West. January 12, 1887.
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No. 12. Mr. Bayard to Sir L. S. Sackville West. April 12, 1887.
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No. 20. Mr. Bayard to Mr. Garland. October 7, 1887.
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No. 26. Same to same. October 13, 1887.
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No. 29. Sir L. S. Sackville West to Mr. Bayard. October 19, 1887.
No. 30. Mr. Bayard to Sir L. S. Sackville West. October 22, 1887.
No. 31. Sir L. S. Sackville West to Mr. Bayard. October 26, 1887.
No. 32. Mr. Garland to Mr. Bayard. March 9, 1888.
No. 33. Sir L. S. Sackville West to Mr. Bayard. March 26, 1888.
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No. 37. Mr. Bayard to Sir L. S. Sackville West. April 22, 1888.
No. 38. Sir L. S. Sackville West to Mr. Bayard. April 30, 1888.
No. 39. Same to same. May 25, 1888.
No. 40. Mr. Bayard to Sir L. S. Sackville West. May 28, 1888.
No. 41. Same to same. May 28, 1888.
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No. 55. Mr. Bayard to Sir L. S. Sackville West. September 27, 1886.
No. 56. Mr. Garland to Mr. Bayard. October 11, 1888.
No. 57. Lord Sackville to Mr. Bayard. October 12, 1888.
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No. 62. Mr. Bayard to Mr. Garland. November 17, 1888.
No. 63. Mr. Herbert to Mr. Bayard. November 23, 1888.
No. 64. Mr. Bayard to Mr. Garland. November 27, 1888.
No. 65. Mr. Bayard to Mr. Herbert. November 28, 1888.
No. 66. Mr. Herbert to Mr. Bayard. December 5, 1888.
No. 67. Mr. Bayard to Mr. Herbert. December 10, 1888.
No. 68. Mr. Stevens to Mr. Rives. No. 388. December 31, 1888.

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No. 1.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *September* 27, 1886. (Received September 28.)

SIR: I have the honor to inform you that Her Majesty's Government have received a telegram from the commander-in-chief of Her Majesty's naval forces on the Pacific station respecting the alleged seizure of three British Columbian seal schooners by the United States revenue cruiser *Corwin*, and I am in consequence instructed to request to be furnished with any particulars which the United States Government may possess relative to this occurrence.

I have, etc.,

L. S. SACKVILLE WEST.

No. 2.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *October* 21, 1886. (Received October 22.)

SIR: With reference to my note of the 27th ultimo, requesting to be furnished with any particulars which the United States Government may possess relative to the seizure in the North Pacific waters of three British Columbian seal schooners by the United States revenue cruiser *Corwin*, and to which I am without reply, I have the honor to inform you that I am now instructed by the Earl of Iddesleigh, Her Majesty's principal secretary of state for foreign affairs, to protest in the name of Her Majesty's Government against such seizure, and to reserve all rights to compensation.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 3.

*Earl of Iddesleigh to Sir L. S. Sackville West.**

FOREIGN OFFICE, *October* 30, 1886.

SIR: Her Majesty's Government are still awaiting a report on the result of the application which you were directed by my dispatch No. 181,

* Left at the Department of State by Sir L. S. Sackville West November 12, 1886.

of the 9th ultimo, to make to the Government of the United States for information in regard to the reported seizure by the United States revenue-cutter *Corwin* of three Canadian schooners while engaged in the pursuit of seals in Bering's Sea.

In the mean while, further details in regard to these seizures have been sent to this country, and Her Majesty's Government now consider it incumbent on them to bring to the notice of the United States Government the facts of the case as they have reached them from British sources.

It appears that the three schooners, named respectively the *Carolina*, the *Onward*, and the *Thornton*, were fitted out in Victoria, British Columbia, for the capture of seals in the waters of the Northern Pacific Ocean, adjacent to Vancouver's Island, Queen Charlotte Islands, and Alaska.

According to the depositions inclosed herewith from some of the officers and men,* these vessels were engaged in the capture of seals in the open sea, out of sight of land, when they were taken possession of, on or about the 1st August last, by the United States revenue-cutter *Corwin* —the *Carolina* in latitute 55° 50′ north, longitude 168° 53′ west; the *Onward* in latitude 50° 52′ north, longitude 167° 55′ west; and the *Thornton* in about the same latitude and longitude.

They were all at a distance of more than 60 miles from the nearest land at the time of their seizure, and on being captured were towed by the *Corwin* to Oonalaska, where they are still detained. The crews of the *Carolina* and *Thornton*, with the exception of the captain and one man on each vessel detained at that port, were, it appears, sent by the steamer *St. Paul* to San Francisco, Cal., and then turned adrift, while the crew of the *Onward* were kept at Oonalaska.

At the time of their seizure the *Carolina* had 686 seal-skins on board, the *Thornton* 404, and the *Onward* 900, and these were detained, and would appear to be still kept at Oonalaska, along with the schooners, by the United States authorities.

According to information given in the Alaskan, a newspaper published at Sitka, in the Territory of Alaska, and dated the 4th September, 1886, it is reported:

(1) That the master and mate of the schooner *Thornton* were brought for trial before Judge Dawson, in the United States district court at Sitka, on the 30th August last.

(2) That the evidence given by the officers of the United States revenue-cutter *Corwin* went to show that the *Thornton* was seized while in Bering Sea, about 60 or 70 miles south south-east of St. George Island, for the offense of hunting and killing seals within that part of Bering Sea which (it was alleged by the Alaskan newspaper) was ceded to the United States by Russia in 1867.

(3) That the judge in his charge to the jury, after quoting the first article of the treaty of the 30th March, 1867, between Russia and the United States, in which the western boundary of Alaska is defined, went on to say: "All the waters within the boundary set forth in this treaty to the western end of the Aleutian archipelago and chain of islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must, therefore, attach against any violation of law within the limits heretofore described. If, therefore, the jury believe from the evidence that the defendants, by themselves or in conjunction with others, did, on or about the time charged in the information, kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal or animals on the shores of Alaska or in the Bering Sea east of 193° of west longitude, the

* (1) Copy of a letter from Daniel Munroe, master of the Canadian sealing schooner *Onward*. (2) Copy of a letter from James Ogilvie, master of the Canadian sealing schooner *Carolina*. (3) Deposition of John Dallas, seaman on board the *Thornton*; of Thomas McLardy, cook on board the *Carolina*; of Edward Shields, seaman on board the *Carolina*; and of William Munsie, owner of the *Carolina*. All of the province of British Columbia. [These inclosures were not transmitted to the Department.]

jury should find the defendants guilty, and assess their punishment separately at a fine of not less than $200 nor more than $1,000, or imprisonment not more than six months, or by both such fine (within the limits herein set forth) and imprisonment."

(4) That the jury brought in a verdict of guilty against the prisoners, in accordance with which the master of the *Thornton*, Hans Guttounsen, was sentenced to imprisonment for thirty days, and to pay a fine of $500; and the mate of the *Thornton*, Norman, was sentenced to imprisonment for thirty days, and to pay a fine of $300; which terms of imprisonment are presumably now being carried into effect.

There is also reason to believe that the masters and mates of the *Onward* and *Carolena* have since been tried and sentenced to undergo penalties similar to those now being inflicted on the master and mate of the *Thornton*.

You will observe, from the facts given above, that the authorities of the United States appear to lay claim to the sole sovereignty of that part of Bering Sea lying east of the westerly boundary of Alaska, as defined in the first article of the treaty concluded between the United States and Russia in 1867, by which Alaska was ceded to the United States, and which includes a stretch of sea extending in its widest part some 600 or 700 miles easterly [westerly ?] from the main-land of Alaska.

In support of this claim, those authorities are alleged to have interfered with the peaceful and lawful occupation of Canadian citizens on the high seas, to have taken possession of their ships, to have subjected their property to forfeiture, and to have visited upon their persons the indignity of imprisonment.

Such proceedings, if correctly reported, would appear to have been in violation of the admitted principles of international law.

I request that you will, on the receipt of this dispatch, seek an interview with Mr. Bayard, and make him acquainted with the nature of the information which which Her Majesty's Government have been furnished respecting this matter, and state to him that they do not doubt that, if on inquiry it should prove to be correct, the Government of the United States will, with their well-known sense of justice, at once admit the illegality of the proceedings resorted to against the British vessels and the British subjects above mentioned, and will cause reasonable reparation to be made for the wrongs to which they have been subjected and for the losses which they have sustained.

Should Mr. Bayard desire it, you are authorized to leave with him a copy of this dispatch.

I am, etc.,

IDDESLEIGH.

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No. 4.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, November* 12, 1886.

SIR: The delay in my reply to your letters of September 27 and October 21, asking for the information in my possession concerning the seizure by the United States revenue-cutter *Corwin*, in the Bering Sea, of British vessels, for an alleged violation of the laws of the United States in relation to the Alaskan seal fisheries, has been caused by my waiting to receive from the Treasury Department the information you desired. I tender the fact in apology for the delay and as the reason for my silence, and, repeating what I said verbally to you in our conversation this morning, I am still awaiting full and authentic reports of the judicial trial and judgment in the cases of the seizures referred to

My application to my colleague, the Attorney-General, to procure an authentic report of these proceedings was promptly made, and the delay in furnishing the report doubtless has arisen from the remoteness of the place of trial.

So soon as I am enabled I will convey to you the facts as ascertained in the trial and the rulings of law as applied by the court.

I take leave also to acknowledge your communication of the 21st of October, informing me that you had been instructed by the Earl of Iddesleigh, Her Majesty's principal secretary of state for foreign affairs, to protest against the seizure of the vessels above referred to, and to reserve all rights of compensation.

All of which shall receive respectful consideration.

I have, etc.,

T. F. BAYARD.

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No. 5.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *December* 7, 1886. (Received December 8.)

SIR: Referring to your note of the 12th instant [ultimo?] on the subject of the seizure of British vessels in the Bering Sea, and promising to convey to me as soon as possible the facts as ascertained in the trial and the rulings of law as applied by the court, I have the honor to state that vessels are now, as usual, equipping in British Columbia for fishing in that sea. The Canadian Government, therefore, in the absence of information, are desirous of ascertaining whether such vessels fishing in the open sea and beyond the territorial waters of Alaska would be exposed to seizure, and Her Majesty's Government at the same time would be glad if some assurance would be given that, pending the settlement of the question, no such seizures of British vessels will be made in Bering Sea.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 6.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *January* 9, 1887. (Received January 10.)

SIR: I have the honor to inform you that I have received instructions from the Earl of Iddesleigh, Her Majesty's principal secretary of state for foreign affairs, again to bring to your notice the grave representations made by Her Majesty's Government respecting the seizure of the British vessels *Carolena*, *Onward*, and *Thornton* in Bering Sea by the United States cruiser *Corwin*, to which no reply has as yet been received.

On the 27th of September last I had the honor to address to you a note, in which I stated that Her Majesty's Government requested to be furnished with any particulars which the United States Government might possess relative to this occurrence.

On the 21st of October last I had the honor to inform you that I was instructed by the Earl of Iddesleigh to protest in the name of Her Majesty's Government against such seizures, and to reserve all rights to compensation.

In a note dated the 12th of November last you were good enough to explain the delay which had occurred in answering these communications, and on the same day I had the honor to communicate to you a dispatch from the Earl of Iddesleigh, a copy of which, at your request, I placed in your hands.

On the 7th ultimo I again had the honor to address you, stating that vessels were equipping in British Columbia for fishing in Bering Sea, and that the Canadian Government were desirous of ascertaining whether such vessels fishing in the open sea and beyond the territorial waters of Alaska would be exposed to seizure, and that Her Majesty's Government would be glad if some assurance could be given that pending the settlement of the questions no such seizures of British vessels would be made in Bering Sea.

The vessels in question were seized at a distance of more than 60 miles from the nearest land at the time of their seizure. The master of the *Thornton* was sentenced to imprisonment for thirty days, and to pay a fine of $500, and there is reason to believe that the masters of the *Onward* and *Carolena* have been sentenced to similar penalties.

In support of this claim to jurisdiction over a stretch of sea extending in its widest part some 600 or 700 miles from the mainland, advanced by the judge in his charge to the jury, the authorities are alleged to have interferred with the peaceable and lawful occupation of Canadian citizens on the high seas; to have subjected their property to forfeiture and to have visited upon their persons the indignity of imprisonment. Such proceedings therefore, if correctly reported, appear to have been in violation of the admitted principles of international law.

Under these circumstances Her Majesty's Government do not hesitate to express their concern at not having received any reply to their representations, nor do they wish to conceal the grave nature which the case has thus assumed, and to which I am now instructed to call your immediate and most serious attention. It is unnecessary for me to allude further to the information with which Her Majesty's Government have been furnished respecting these seizures of British vessels in the open seas, and which for some time past has been in the possession of the United States Government, because Her Majesty's Government do not doubt that if, on inquiry, it should prove to be correct, the Government of the United States will, with their well-known sense of justice, admit the illegality of the proceedings resorted to against the British vessels and the British subjects above mentioned, and will cause reasonable reparation to be made for the wrongs to which they have been subjected and for the losses which they have sustained.

In conclusion, I have the honor again to refer to your note of the 12th of November last, and to what you said verbally to me on the same day, and to express the hope that the cause of the delay complained of in answering the representations of Her Majesty's Government on this grave and important matter may be speedily removed.

I have, etc.,

L. S. SACKVILLE WEST.

No. 7.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, January* 12, 1887.

SIR: Your note of the 9th instant was received by me on the next day, and I regret exceedingly that, although my efforts have been diligently made to procure from Alaska the authenticated copies of the judicial proceedings in the cases of the British vessels *Carolena*, *Onward*, and *Thornton*, to which you refer, I should not have been able to obtain them in time to have made the urgent and renewed application of the Earl of Iddesleigh superfluous.

The pressing nature of your note constrains me to inform you that on September 27 last, when I received my first intimation from you that any question was possible as to the validity of the judicial proceedings referred to, I lost no time in requesting my colleague, the Attorney-General, in whose Department the case is, to procure for me such authentic information as would enable me to make full response to your application.

From week to week I have been awaiting the arrival of the papers, and to-day, at my request, the Attorney-General has telegraphed to Portland, Oregon, the nearest telegraph station to Sitka, in Alaska, in order to expedite the furnishing of the desired papers.

You will understand that my wish to meet the questions involved in the instructions you have received from your Government is averred, and that the delay has been enforced by the absence of requisite information as to the facts.

The distance of the vessels from any land or the circumstances attendant upon their seizure are unknown to me save by the statements in your last note, and it is essential that such facts should be devoid of all uncertainty.

Of whatever information may be in the possession of Her Majesty's Government I have, of course, no knowledge or means of knowledge, but this Department of the Government of the United States has not yet been placed in possession of that accurate information which would justify its decision in a question which you are certainly warranted in considering to be of grave importance.

I shall diligently endeavor to procure the best evidence possible of the matters inquired of, and will make due response thereupon when the opportunity of decision is afforded to me.

You require no assurance that no avoidance of our international obligations need be apprehended.

I have etc.,

T. F. BAYARD.

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No. 8.

*Sir L. S. Sackville West to Mr. Bayard.*

BRITISH LEGATION,
*Washington, February* 1, 1887. (Received February 2.)

SIR: With reference to your note of the 12th ultimo, I have the honor to inform you that under date of the 27th ultimo the Marquis of Salis-

bury instructs me to inquire whether the information and papers relative to the seizure of the British schooners *Carolena*, *Onward*, and *Thornton* have reached the United States Government.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 9.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, February* 3, 1887.

SIR: I beg to acknowledge your note of yesterday's date, received to-day.

Upon its receipt I made instant application to my colleague, the Attorney-General, in relation to the record of the judicial proceedings in the cases of the three British vessels arrested in August last in Bering Sea for violation of the United States laws regulating the Alaskan seal fisheries.

I am informed that the documents in question left Sitka on the 26th of January, and may be expected to arrive at Port Townsend, in Washington Territory, about the 7th instant, so that the papers, in the usual course of mail, should be received by me within a fortnight.

In this connection I take occasion to inform you that, without conclusion at this time of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

I have, etc.,

T. F. BAYARD.

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No. 10.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *February* 4, 1887. (Received February 5.)

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant, informing me that without conclusion at this time of any questions which may be found to be involved in the cases of seizure of British vessels in Bering Sea, orders have been issued, by the President's direction, for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

I have, etc.,

L. S. SACKVILLE WEST.

No. 11.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *April* 4, 1887. (Received April 4.)

SIR: In view of the approaching fishing season in Bering Sea and the fitting out of vessels for fishing operations in those waters, Her Majesty's Government have requested me to inquire whether the owners of such vessels may rely on being unmolested by the cruisers of the United States when not near land.

Her Majesty's Government also desires to know whether the documents referred to in your note of the 3d of February last connected with the seizure of certain British vessels beyond the three-mile limit and legal proceedings connected therewith have been received. And I have the honor therefore to request you to be good enough to enable me to reply to these inquiries on the part of Her Majesty's Government with as little delay as possible.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 12.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, April* 12, 1887.

SIR: I have the honor to acknowledge your note of the 4th instant relative to the fisheries in Bering Sea, and inquiring whether the documents referred to in my note of February 3, relating to the cases of seizure in those waters of vessels charged with violating the laws of the United States regulating the killing of fur seals, had been received.

The records of the judicial proceedings in the cases in the district court in Alaska referred to, were only received at this Department on Saturday last, and are now under examination.

The remoteness of the scene of the fur-seal fisheries and the special peculiarities of that industry have unavoidably delayed the Treasury officials in framing appropriate regulations and issuing orders to United States vessels to police the Alaskan waters for the protection of the fur-seals from indiscriminate slaughter and consequent speedy extermination.

The laws of the United States in this behalf are contained in the Revised Statutes relating to Alaska, in sections 1956–1971, and have been in force for upwards of seventeen years; and prior to the seizures of last summer but a single infraction is known to have occurred, and that was promptly punished.

The question of instructions to Government vessels in regard to preventing the indiscriminate killing of fur-seals is now being considered, and I will inform you at the earliest day possible what has been decided, so that British and other vessels visiting the waters in question can govern themselves accordingly.

I have, etc.,

T. F. BAYARD.

[Annex.]

## TITLE XXIII.—THE TERRITORIES.

### REVISED STATUTES RELATING TO ALASKA.

### CHAPTER III.—*Provisions relating to the unorganized Territory of Alaska.*

Sec.
1954. Customs, etc., laws extended to Alaska.
1955. Importation of fire-arms and distilled spirits may be prohibited.
1956. Killing of fur-bearing animals prohibited.
1957. What courts to have jurisdiction of offenses.
1958. Remission of fines, etc.
1959. St. Paul and St. George Islands declared special reservations.
1960. Killing of seal upon them prohibited except in certain months.
1961. Killing of certain seal prohibited.
1962. Limit to number of seals to be killed.
1963. Right to take seal may be leased.
1964. Bond.
1965. Who may lease.
1966. Covenants in lease.
1967. Penalty.
1968. Penalty upon leases.
1969. Tax upon seal skins.
1970. Lease may be terminated.
1971. Lessees to furnish copies to masters of their vessels.
1972. Certain sections may be altered.
1973. Agents and assistants to manage seal fisheries.
1974. Their pay etc.
1975. Not to be interested in right to take seals.
1976. Agents may administer certain oaths and take testimony.

SEC. 1954. The laws of the United States relating to customs, commerce, and navigation, are extended to and over all the main-land, islands, and waters of the Territory ceded to the United States by the Emperor of Russia by treaty concluded at Washington on the thirtieth day of March, A. D. one thousand eight hundred and sixty-seven, so far as the same may be applicable thereto.

SEC. 1955. The President shall have the power to restrict and regulate or to prohibit the importation and use of fire-arms, ammunition, and distilled spirits, into and within the Territory of Alaska; the exportation of the same from any other port or place in the United States, when destined to any port or place in that Territory, and all such arms, ammunition, and distilled spirits, exported or attempted to be exported from any port or place in the United States and destined for such Territory, in violation of any regulations that may be prescribed under this section, and all such arms, ammunition, and distilled spirits, landed or attempted to be landed or used at any port or place in the Territory, in violation of such regulations, shall be forfeited; and if the value of the same exceeds four hundred dollars the vessel upon which the same is found, or from which they have been landed, together with her tackle, apparel and furniture, and cargo, shall be forfeited; and any person willfully violating such regulations shall be fined not more than five hundred dollars, or imprisoned not more than six months. Bonds may be required for a faithful observance of such regulations from the master or owners of any vessel departing from any port in the United States having on board fire-arms, ammunition, or distilled spirits, when such vessel is destined to any place in the Territory, or if not so destined, when there is reasonable ground of suspicion that such articles are intended to be laded therein in violation of law; and similar bonds may also be required on the landing of any such articles in the Territory from the person to whom the same may be consigned.

SEC. 1956. No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offense, be fined not less than two hundred dollars nor more than one thousand dollars, or imprisonment not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited. But the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur-seal and to provide for the execution of the provisions of this section until it is otherwise provided by law; nor shall he grant any special privileges under this section.

SEC. 1957. Until otherwise provided by law, all violations of this chapter and of the several laws hereby extended to the Territory of Alaska and the waters thereof committed within limits of the same, shall be prosecuted in any district court of the United States in California or Oregon, or in the district courts of Washington; and the collector and deputy collectors appointed for Alaska Territory, and any person authorized in writing by either of them, or by the Secretary of the Treasury, shall have power to arrest persons and seize vessels and merchandise liable to fines, penalties, or forfeitures under this and the other laws extended over the Territory, and to keep and deliver the same to the marshal of some one of such courts; and such courts shall have original jurisdiction, and may take cognizance of all cases arising under this act and the several laws hereby extended over the Territory, and shall proceed

therein in the same manner and with the like effect as if such cases had arisen within the district or territory where the proceedings are brought.

SEC. 1958. In all cases of fine, penalty or forfeiture embraced in the act approved the third March, one thousand seven hundred and ninety-seven, chapter thirteen, or mentioned in any act in addition to or amendatory of such act, that have occurred or may occur in the collection district of Alaska, the Secretary of the Treasury is authorized, if, in his opinion, the fine, penalty or forfeiture was incurred without willful negligence or intention of fraud, to ascertain the facts in such manner and under such regulations as he may deem proper without regard to the provisions of the act above referred to, and upon the facts so to be ascertained he may exercise all the power of remission conferred upon him by that act, as fully as he might have done had such facts been ascertained under and according to the provisions of that act.

SEC. 1959. The islands of Saint Paul and Saint George, in Alaska, are declared a special reservation for Government purposes; and until otherwise provided by law it shall be unlawful for any person to land or remain on either of those islands, except by the authority of the Secretary of the Treasury; and any person found on either of those islands, contrary to the provisions hereof, shall be summarily removed; and it shall be the duty of the Secretary of War to carry this section into effect.

SEC. 1960. It shall be unlawful to kill any fur-seal upon the islands of Saint Paul and Saint George, or in the waters adjacent thereto except during the months of June, July, September, and October in each year; and it shall be unlawful to kill such seals at any time by the use of fire-arms, or by other means tending to drive the seals away from those islands, but the natives of the islands shall have the privilege of killing such young seals as may be necessary for their own food and clothing during other months, and also such old seals as may be required for their own clothing and for the manufacture of boats for their own use; and the killing in such cases shall be limited and controlled by such regulations as may be prescribed by the Secretary of the Treasury.

SEC. 1961. It shall be unlawful to kill any female seal, or any seal less than one year old, at any season of the year, except as above provided; and it shall also be unlawful to kill any seal in the waters adjacent to the islands of Saint Paul and Saint George, or on the beaches, cliffs, or rocks where they haul up from the sea to remain; and every person who violates the provisions of this or the preceding section shall be punished for each offense by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment not more than six months, or by both such fine and imprisonment; and all vessels, their tackle, apparel, and furniture, whose crews are found engaged in the violation of either this or the preceding section, shall be forfeited to the United States.

SEC. 1962. For the period of twenty years from the first July, one thousand eight hundred and seventy, the number of fur seals which may be killed for their skins upon the island of Saint Paul is limited to seventy-five thousand per annum; and the number of fur-seals which may be killed for their skins upon the island of Saint George is limited to twenty-five thousand per annum; but the Secretary of the Treasury may limit the right of killing, if it becomes necessary for the preservation of such seals, with such proportionate reduction of the rents reserved to the Government as may be proper; and every person who knowingly violates either of the provisions of this section shall be punished as provided in the preceding section.

SEC. 1963. When the lease heretofore made by the Secretary of the Treasury to "The Alaska Commercial Company" of the right to engage in taking fur-seals on the islands of Saint Paul and Saint George, pursuant to the act of the first July, chapter one hundred and eighty-nine, or when any future similar lease expires, or is surrendered, forfeited, or terminated, the Secretary shall lease to proper and responsible parties, for the best advantage of the United States, having due regard to the interests of the Government, the native inhabitants, their comfort, maintenance, and education, as well as to the interests of the parties heretofore engaged in trade and the protection of the fisheries, the right of taking fur-seals on the islands herein named, and of sending a vessel or vessels to the islands for the skins of such seals, for the term of twenty years, at an annual rental of not less than fifty thousand dollars, to be reserved in such lease and secured by a deposit of United States bonds to that amount; and every such lease shall be duly executed in duplicate, and shall not be transferable.

SEC. 1964. The Secretary of the Treasury shall take from the lessees of such islands in all cases a bond, with securities, in a sum not less than five hundred thousand dollars, conditioned for the faithful observance of all the laws and requirements of Congress, and the regulations of the Secretary of the Treasury touching the taking of fur-seals and the disposing of the same, and for the payment of all taxes and dues accruing to the United States connected therewith.

SEC. 1965. No persons other than American citizens shall be permitted, by lease or otherwise, to occupy the islands of Saint Paul and Saint George, or either of them, for the purpose of taking the skins of fur-seals therefrom, nor shall any foreign ves-

sels be engaged in taking such skins; and the Secretary of the Treasury shall vacate and declare any lease forfeited if the same be held or operated for the use, benefit or advantage, directly or indirectly, of any persons other than American citizens.

SEC. 1966. Every lease shall contain a covenant on the part of the lessee that he will not keep, sell, furnish, give or dispose of any distilled spirits or spirituous liquors on either of those islands to any of the natives thereof, such person not being a physician and furnishing the same for use as medicine; and every revenue officer, officially acting as such on either of the islands, shall seize and destroy any distilled or spirituous liquors found thereon; but such officer shall make detailed reports of his doings in that matter to the collector of the port.

SEC. 1967. Every person who kills any fur seal on either of those islands, or in the waters adjacent thereto, without authority of the lessees thereof, and every person who molests, disturbs, or interferes with the lessees, or either of them, or their agents or employés, in the lawful prosecution of their business, under the provisions of this chapter, shall for each offense be punished as prescribed in section 1961; and all vessels, their tackle, apparel, appurtenances, and cargo, whose crews are found engaged in any violation of the provisions of sections 1965 to 1868, inclusive, shall be forfeited to the United States.

SEC. 1968. If any person or company, under any lease herein authorized, knowingly kills, or permits to be killed, any number of seals exceeding the number for each island in this chapter prescribed, such person or company shall, in addition to the penalties and forfeitures herein provided, forfeit the whole number of the skins of seals killed in that year, or, in case the same have been disposed of, then such person or company shall forfeit the value of the same.

SEC. 1969. In additional to the annual rental required to be reserved in every lease, as provided in section nineteen hundred and sixty-three, a revenue tax or duty of two dollars is laid upon each fur-seal skin taken and shipped from the islands of Saint Paul and Saint George during the continuance of any lease, to be paid into the Treasury of the United States; and the Secretary of the Treasury is empowered to make all needful regulations for the collection and payment of the same, and to secure the comfort, maintenance, education, and protection of the natives of those islands, and also to carry into full effect all the provisions of this chapter except as otherwise prescribed.

SEC. 1970. The Secretary of the Treasury may terminate any lease given to any person, company, or corporation on full and satisfactory proof of the violation of any of the provisions of this chapter or the regulations established by him.

SEC. 1971. The lessees shall furnish to the several masters of vessels employed by them certified copies of the lease held by them respectively, which shall be presented to the Government revenue officer for the time being who may be in charge at the islands as the authority of the party for landing and taking skins.

SEC. 1972. Congress may at any time hereafter alter, amend, or repeal sections from nineteen hundred and sixty to nineteen hundred and seventy-one, both inclusive, of this chapter.

SEC. 1973. The Secretary of the Treasury is authorized to appoint one agent and three assistant agents, who shall be charged with the management of the seal fisheries in Alaska, and the performance of such other duties as may be assigned to them by the Secretary of the Treasury.

SEC. 1974. The agent shall receive the sum of ten dollars each day, one assistant agent the sum of eight dollars each day, and two assistant agents the sum of six dollars each day while so employed; and they shall also be allowed their necessary traveling expenses in going to and returning from Alaska, for which expenses vouchers shall be presented to the proper accounting officers of the Treasury, and such expenses shall not exceed in the aggregate six hundred dollars each in any one year.

SEC. 1975. Such agents shall never be interested, directly or indirectly, in any lease of the right to take seals, nor in any proceeds or profits thereof, either as owner, agent, partner, or otherwise.

SEC. 1976. Such agents are empowered to administer oaths in all cases relating to the service of the United States, and to take testimony in Alaska for the use of the Government in any matter concerning the public revenues.

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## No. 13.

### *Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *July* 8, 1887. (Received July 9.)

SIR: With reference to your note of the 12th April, stating that the records of the judicial proceedings in the cases of the British vessels

seized in the Bering Sea had been received, I have the honor to inform you that the Marquis of Salisbury has instructed me to request you to be good enough to furnish me with a copy of the same for the information of Her Majesty's Government.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 14.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, July* 11, 1887.

SIR: Complying with the request contained in your note of the 8th instant, conveyed to me under the instructions of your Government, I have the honor to inclose you two printed copies of the judicial proceedings in the United States district court for the District of Alaska in the several cases of libel against the schooners *Onward*, *Carolena*, and *Thornton*, for killing fur seals in Alaskan waters.

Accept, etc.,

T. F. BAYARD.

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[Inclosure.]

*Transcript of record in the case of the schooner Carolena.*

The United States, libellant, *vs.* The Schooner *Carolena*, her tackle, etc. On libel of information for being engaged in the business of killing fur seal in Alaska.

On the 28th day of August, 1886, was filed the following libel of information.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA, AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,
*Judge of said District Court:*

The libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of said United States, and being present here in court in his proper person, in the name and on behalf of the said United States, against the schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

That Charles A. Abbey, an officer in the Revenue Marine Service of the United States, and on special duty in the waters of the District of Alaska, heretofore, to wit, on the first day of August, 1886, within the limits of Alaska Territory and in the waters thereof, and within the civil and judicial district of Alaska, to wit in the waters of that portion of Bering's Sea belonging to said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the *Carolena*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons to said attorney unknown, as forfeited to the use of the United States, for the following causes:

That the said vessel was found engaged in killing fur seal within the limits of Alaska Territory and in the waters thereof in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true and within the admiralty and maritime jurisdiction of this court, and that by reason thereof, and by force of the statutes of the United States in such cases made and provided, the aforementioned and described schooner or vessel, being a vessel of over twenty tons burden, her tackle, apparel, boats, cargo, and furniture, became and are

forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the beforementioned and described schooner or vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo, and furniture, may, for the causes aforesaid and others appearing, be condemned by the definite sentence and decree of this honorable court, as forfeited to the use of the United States, according to the form of the statutes of the said United States in such case made and provided.

M. D. BALL,
*U. S. Dist. Attorney for the Dist. of Alaska.*

Thereupon issued forthwith the following monition:

DISTRICT OF ALASKA, SCT.

The President of the United States to the Marshal of the District of Alaska, greeting:

Whereas a libel of information hath been filed in the district court of the United States for the District of Alaska on the 28th day of August, in the year 1886, by M. D. Ball, United States attorney for the District aforesaid, on behalf of the United States of America, against the schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, as forfeited to the use of the United States for the reasons and causes in the said libel of information mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, etc., may be cited in general and special to answer the premises, and, all proceedings being had, that the said schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, may, for the causes in the said libel of information mentioned, be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, to detain the same in your custody until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the district of Alaska, on the 4th day of October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Lafayette Dawson, judge of said court, and the seal thereof affixed at the city of Sitka in the district of Alaska, this 28th day of August, in the year of our Lord one thousand eight hundred and eighty six and of the Independence of the United States the one hundred and eleventh.

[SEAL.] ANDREW T. LEWIS,
*Clerk.*

On the 6th day of September, 1886, was filed the following affidavit:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*The United States of America* vs. *The Schooner Carolena.*

UNITED STATES OF AMERICA, *District of Alaska, ss:*

C. A. Abbey, being duly sworn, deposes and says:

That he is, and at all times herein mentioned was, a captain in the United States Revenue Marine, and in command of the United States revenue cutter *Corwin*.

That affiant and the following-named officers and men of said *Corwin* are material and necessary witnesses for the United States in the above-entitled action, to wit: J. C. Cantwell, lieutenant; Thos. Singleton, seaman; J. U. Rhodes, lieutenant; T. Lorensen, seaman; and J. H. Douglass, pilot.

That owing to scarcity of provisions and fuel upon said *Corwin*, the said *Corwin* and deponent and said witnesses will be obliged to and are about to go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than one hundred miles from the place of trial of said action before the time of said trial.

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That James Blake was the mate of said schooner at the time of its seizure, and is the only person or officer of said schooner now within the jurisdiction of this court, or upon whom service of notice can be made as affiant is informed and believes.

C. A. ABBEY.

Subscribed and sworn to before me this 6th day of September, 1886.

ANDREW T. LEWIS,
*Clerk.*

On the same day was entered the following order:

*In the matter of the United States* vs. *Schooner Thornton, case No.* 50; *schooner Carolena case No.* 51; *schooner Onward, case No.* 49; *schooner San Diego, case No.* 52.

In the above-entitled actions urgent necessity and good cause appearing therefor from the affidavits of C. A. Abbey, now, on motion of M. D. Ball, United States district attorney for Alaska, and counsel for the United States herein, it is ordered that the depositions of the witnesses C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglass, C. T. Winslow, Albert Leaf, C. Wilhelm, Thos. Singleton, and T. Lorensen be taken before the clerk of the said district court on Tuesday, the 7th day of September, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached at the office of said clerk at Sitka, Alaska, and if not completed on said evening, then the taking of said depositions to be continued by said clerk, from time to time until completed. That notice of the time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Munroe, and Charles E. Raynor, and upon W. Clark, esq., attorney-at-law, on or before September 7th at 12 m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court this 6th day of September, 1886. Now at this time W. Clark, esq., being present in court, waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return thereof:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRCT OF ALASKA, UNITED STATES OF AMERICA.

*The United States* vs. *The schooner Carolena.*

To James Blake greeting: You are notified that by order of Lafayette Dawson, judge of said district court, that the depositions of C. A. Abbey, J. C. Cantwell, J. U. Rhodes, and J. H. Douglass will be taken before the clerk of said district court at his office at Sitka in said district on Tuesday, September 7th, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached, and if not completed on said evening, the taking of said depositions will be continued by said clerk from time to time until completed.

Dated September 7th, 1886.

ANDREW T. LEWIS,
*Clerk.*

UNITED STATES OF AMERICA, *District of Alaska, ss:*

This is to certify that on the 7th day of September, 1886, before 12 o'clock noon of that day, I served the annexed notice on the within-named James Blake, at Sitka, district of Alaska, by then and there personally delivering to said James Blake a copy of said notice. And then and there gave him the privilege of being present at the taking of said depositions.

Dated September 9th, 1886.

BARTON ATKINS,
*U. S. Marshal.*

On the 9th day of September, 1886, were filed the following depositions:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*The United States of America* vs. *The schooner Carolena. No.* 51.

Deposition of witnesses sworn and examined before me on the 7th day of September, A. D. 1886, at 7 o'clock p. m. of said day, and on September 8th and 9th, 1886, thereafter, at the clerk's office of said court in Sitka, district of Alaska, United States of America, by virtue and in pursuance of the order of said court, made and entered in

the above-entitled action on September 6th, 1886, directing that the testimony and depositions of said witnesses be taken before me at said first mentioned time and place and at such subsequent times as the taking of the same might be continued to by me, in said action then and there pending in said district court between the United States as plaintiff and the schooner *Carolena* as defendant, on behalf of and at the instance of the said plaintiff, the United States, and upon notice of the time and place of taking of said depositions, served upon James Blake, the mate of said schooner, he being the only officer of said schooner upon whom service could be made, and upon W. Clark, esq., his attorney, the owners of said schooner being unknown and without the jurisdiction of this court.

Captain C. A. Abbey, being duly sworn, deposes and says:

Q. State your name and occupation.—A. Captain C. A. Abbey, in the United States Revenue Marine Service, at present in command of the U. S. Revenue steamer *Corwin* on special duty in Alaskan waters, for the protection of the seal islands and of the Government interests in Alaska generally.

Q. What were you doing and what occurred on the 1st of August last in the line of your duty?—A. Cruising in Berings Sea about 75 miles south-southeast from St. George's Island, and I found the British schooner *Carolena* of Victoria, B. C., drifting with sails down. Her boats were absent and she was evidently a sealer. I saw dead seal lying upon her forward deck; inquired of the schooner in which direction her boats were.

I then ordered her to be seized by Lieut. Cantwell for killing fur seal in the waters of Alaska, took her in tow, and proceeded to hunt up her boats, all four of which I found with freshly-killed fur seal in them, arms, ammunition, and hunters, some of whom I saw shooting at the seal in the water. These boats all went on board the *Carolena*. On this evidence I caused the vessel to be seized by Lieut. Cantwell. I took her in tow and proceeded with her to Ounalaska where I placed the vessel, tackle, cargo, furniture, and appurtenances in charge of Deputy U. S. Marshal Isaac Anderson, of Ounalaska; the cargo of fur seal skins being stored in "Keuch," in one of the warehouses of the Alaska Commercial Company and under seal. The arms and ammunition of this vessel I took on board the *Corwin* and brought to Sitka and delivered into the custody of the U. S. marshal there.

The vessel, tackle, furniture, and cargo are now in the custody of the U. S. marshal of this district.

Q. Was this the vessel against which this libel of information is filed?—A. It is.

Q. Did all this occur within the waters of Alaska and the Territory of Alaska, and within the jurisdiction of this court?—A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of ten (10) tons burden or over?—A. It did.

C. A. ABBEY.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
*Clerk.*

Lieutenant John C. Cantwell, being duly sworn, deposes and says:

Q. State your name, occupation, and age?—A. John C. Cantwell, third lieutenant, U. S. Marine Service, at present on duty on the U. S. Revenue steamer *Corwin*, and over the age of twenty-one years

Q. Were you so on the 1st day of August last?—A. I was.

Q. State what occurred on that day in the line of your duty.—A. A schooner was sighted from the *Corwin* and I was directed by Capt. Abbey to board her. I found her to be the schooner *Carolena*, of Victoria, B. C., James Ogilvie, captain, and James Blake, mate. I saw dead seal upon her deck, and the captain admitted that he was engaged in taking seal, and that four of the schooner's boats were at the time absent from the vessel engaged in killing seals. I signaled this fact to Capt. Abbey and he directed me to seize the vessel, which I did, and the *Corwin* took us in tow.

Q. Do you recognize these papers?—A. I do. This paper marked (Ex. I) is the certificate of registry of the schooner *Carolena*, of Victoria, B. C. (*Said certificate is dated March 21st, 1870, and represents said schooner as of 3,190 tons burden, and owned by Francis Armstrong, at Victoria, B. C.*) This paper marked (Ex. J) is the bill of health of said schooner. (*Said bill of health is dated at Victoria, B. C., May 19th, 1886, and represents said schooner Carolena as then ready to depart for Behring Sea and Okhotsk Sea and other places beyond the sea, with James Ogilvie, master, and eleven persons, including said master.*) This paper marked (Ex. K) is the coasting license of said schooner. (*Said license is in the usual form, to James Ogilvie, master of the schooner Carolena, dated at Victoria, B. C., Feb. 16th, 1886, and in terms expires on the 30th day of June, 1886.*) This paper marked (Ex. L) is the clearance of said schooner. (*Said clearance is for said schooner as of 3,190 tons, navigated with eleven men, James*

*O rie, master, bound for Pacific Ocean, Behring Sea, and Okhotsk Sea, on a fishing and hunting voyage, and is dated at Victoria, B. C., May 19th,* 1886.) All of which papers were found on board the *Carolena* at the time of seizure and taken possession of by me.

Q. State how many men the *Carolena* had on board as crew when seized.—A. Thirteen or fourteen.

Q. State whether this is a reasonable number of men for ordinary purposes of commerce and navigation.—A. It is an unusually large number for that purpose on a vessel of that size.

JOHN C. CANTWELL,
*3d Lieut. U. S. R. M.*

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.]

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

John U. Rhodes, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes, Lieut. U. S. Revenue Marine, and at present on duty on the U. S. revenue steamer *Corwin*, and over the age of 21 years.

Q. State what arms and ammunition were seized on the schooner *Carolena* at the time of her seizure.—A. 4 rifles, 1 musket, 5 shotguns, 171 shotgun cartridges, 353 rifle cartridges, 14½ bags buck-shot, ½ bag of bullets, 40 bags of wads, 21 boxes wads, 13 boxes primers, 1½ boxes of caps, 91 lbs. powder.

Q. Were there any nautical instruments seized on the *Carolena* except what is included in the general inventory?—A. 1 octant, 1 quadrant.

Q. What has become of this property?—A. It has all been delivered to the U. S. Marshal at Sitka, and is now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

[SEAL.]

J. H. Douglass being duly sworn deposes and says:

Q. State your name, age, and occupation.—A. J. H. Douglass; am over the age of 21 years; am a pilot in the revenue-marine service of the U. S., and have been so for 7 years last past. I am now, and on the first of August, 1886, was, pilot on the revenue steamer *Corwin*.

Q. State what experience you have had in the fur-sealing business and your knowledge of the habits of the fur-seal.—A. I have been cruising for more than 15 years off and on in Alaskan waters always as an officer or pilot and have visited the Pribyloff Islands, St. Paul and St. George, several hundred times and am perfectly familiar with the sealing business as conducted on those islands and understand the migrating habits of the fur-seal. From about the 1st of May to about the 1st of July of each year the fur-seal is migrating north through the Unimak and Akutan passes to these islands for breeding purposes. They go to no other place in the known world except these islands and Copper Islands for breeding purposes. After the breeding season of about a month they begin to migrate south, and until into November of each year are migrating south through Behring Sea. During this season from May till November the fur seal are plenty in the waters adjacent to the Pribyloff Islands, and are migrating to and from these islands and are at all times very plenty between Unimak pass and said islands in a track about 30 miles wide which seems to be their highway to and from said islands. The schooner *Carolena* and her boats when seized were directly in this tract. I was present at time of seizure.

J. H. DOUGLASS.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.]

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

Thomas Singleton, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. Thomas Singleton; am over the age of 21 years; and am a seaman. Was employed on the steamer *Corwin* on the 1st day of August, 1886, when the *Carolena* was seized. I was sent on board the *Carolena*

right after the seizure, and saw a number of dead fur seal on deck and some of them had fur on them. Saw also some fresh fur-seal skins in the boats.

THOMAS SINGLETON.

Subscribed and sworn to before me this 8th day of September, 1886, after having been read over by me to deponent.

[SEAL.] ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*The United States* vs. *The schooner Carolena. No.* 51.

Whereas on the 6th day of December, 1886, the said district court duly made and entered in the journal of said court an order in the above-entitled action, directing that the testimony and depositions of the witnesses, C. A. Abbey, J. C. Cantwell, J. U. Rhodes, J. H. Douglass, and Thomas Singleton, be taken before me, the clerk of said court, at the time or times and place and upon such notices as are specified in said order:

Now, therefore, this is to certify that, in pursuance of said order, on September 7th, 1886, at 7 o'clock p. m., each and all of the above-named witnesses appeared before me at the clerk's office of said court at Sitka, district of Alaska, United States of America; that M. D. Ball, esq., dist. attorney of said court and district, and W. H. Payson, esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, esq., then and there appeared on behalf of and as attorney and proctor for the said schooner and her owners; and James Blake then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th of September, 1886, and completed the same on said last-named day. That the said parties by their said attorneys and proctors then and there appeared and were present on each of said last-named days and at all times during the taking of said depositions. That each of said witnesses was then and there first duly cautioned and sworn by me, that the evidence he should give in said action should be the truth, the whole truth, and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then and there read the same over to him; and he then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

In witness whereof I have hereunto set my hand and the seal of said district court this 9th day of September, 1886.

[SEAL.] ANDREW T. LEWIS,
*Clerk of the U. S. District Court in and for the District of Alaska, United States of America.*

On September 20th, 1886, was filed the following amended libel of information:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA. AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,
*Judge of said district court:*

The amended libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of said United States and being present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:

That C. A. Abbey, an officer in the revenue marine service of the United States, duly commissioned by the President of the United States, in command of the United States revenue-cutter *Corwin*, and now on special duty in the waters of the district of Alaska, heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit:

1 schooner *Carolena*, of Victoria, B. C., 4 canoes, 1 yawl, carpenter's tools, clock, chronometer, nautical instruments, sails and running gear, 2 anchors, ropes, twine,

oars, paddles, rowlocks, &c.; lamps, tanks, provisions, 685 fur seal skins, 12 pup seal skins, 1 hair seal skin, 4 rifles, 5 shotguns, and ammunition for same, and all other property found upon or appurtenant to said schooner.

That said C. A. Abbey was then and there duly commissioned and authorized by the proper department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes:

That said vessel, her captain, officers, and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory, and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Ounalaska, in said Territory, and delivered into the keeping of Isaac Anderson, a deputy U. S. marshal of this district, with the exception of the said arms and ammunition, which latter were brought into the port of Sitka, in said district, and turned over to the U. S. marshal of this district, and all of said property is now within the judicial district of Alaska, United States of America.

And the said M. D. Ball, attorney as aforesaid, further informs and alleges:

That on the 1st day of August, 1886, James Blake and certain other persons whose names are to said U. S. attorney unknown, who were then and there engaged on board of the said schooner *Carolena* under the direction and by the authority of James Ogilvie, then and there master of said schooner, engaged in killing and did kill, in the Territory and district of Alaska, and in the waters thereof, to wit, 20 fur seals, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 685 fur-seal skins, 12 pup-seal skins, and 1 hair-seal skin, and other goods so seized on board of said schooner *Carolena* constituted the cargo of said schooner at the time of the killing of said fur seals and at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court, and that by reason thereof, and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over 20 tons burden, and her said tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf against said schooner and all said hereinbefore described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process, why said forfeiture should not be decreed, and that after due proceedings are had, all of said property be adjudged, decreed, and condemned as forfeited to the use of the United States, and for such other relief as may be proper in the premises.

M. D. BALL,
*U. S. Dist. Attorney for the District of Alaska.*

Dated September 20th, 1886.

On the same day was filed the following claim by proctor for owners:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA. IN ADMIRALTY.

*In the matter of the libel of information against the schooner Carolena, her tackle, apparel, furniture, and cargo. Claim by proctor for owners.*

And now W. Clark, the duly authorized proctor for Munzie & Co., owners of the property above named, intervening for the interest of the said Munzie & Co., of Victoria, B. C., owners of the said schooner *Carolena*, her tackle, apparel, furniture, and cargo, as set forth in the libel of information herein, appears before this honorable court and makes claim to the said schooner *Carolena*, her tackle, apparel, cargo, and furniture, as set forth in the said libel of information, and as the same are attached by the marshal under process of this court at the instance of M. D. Ball, esq., U. S. dist. attorney for the district of Alaska.

And the said W. Clark, proctor as aforesaid, avers that the said Munzie & Co. were in possession of the said schooner *Carolena* at time of the attachment thereof, and that the said Munzie & Co. above named are the true and *bona-fide* owners of the said schooner *Carolena*, her tackle, apparel, cargo, and furniture, as seized by the marshal as aforesaid, and that no other person is the owner thereof.

Wherefore he prays to defend accordingly.

W. CLARK.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimant.*

On the same day was filed the following demurrer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *Munzie & Co. and schooner "Carolena." Demurrer.*

The demurrer of Munzie & Co., claimants of the property proceeded against in the above cause, to the amended information filed herein.

1st. The said claimant by protestation, not confessing all or any of the matters in said amended information contained to be true, demurs thereto and says that the said matters in manner and form, as the same are in said information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2d. The said claimants by protestation deny that this court has jurisdiction to determine or try the question hereby put in issue.

3d. And that said claimants are not bound in law to answer the same.

Wherefore the said claimants pray that the said information may be dismissed with costs.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimants.*

Which was overruled by the court.

On the same day was filed the following answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *Munzie & Co. and schooner "Carolena."—Answer.*

The answer of Munzie & Co., owners and claimants of the said schooner *Carolena*, her tackle, apparel, furniture and cargo, as the same are set forth in the information filed herein in behalf of the United States.

And now come Munzie & Co., claimants as aforesaid, and for answer to said information against the said schooner *Carolena*, her tackle, apparel, and cargo as set forth in said information say that the said tackle, apparel, and cargo as set forth in the information mentioned, did not nor did any part thereof become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore the said claimants pray that said information be dismissed with costs to these claimants attached.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimants.*

On the 22d day of September, 1886, were filed the following exceptions to answer:

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*United States* vs. *The Schooner Carolena. No.* 51.

The said libellant hereby excepts to the sufficiency of the defendants' answer herein, on the following grounds:

1st. Said answer is not properly or at all verified, as required by Rule 27 of the U. S. Admiralty Rules.

2nd. Said answer is not full, explicit, or distinct to each or any allegation of the libel herein, as required by said rule.

3rd. Said answer does not deny or admit any of the allegations of fact in said libel, but merely denies a conclusion of law.

M. D. BALL & W. H. PAYSON,
*Proctors for libellant.*

SEPTEMBER 21st, 1886.

Which exceptions were sustained by the court, and on the same day was filed the following amended answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA. IN ADMIRALTY.

*United States* vs. *Munzie & Co. and Schooner Carolena. Amended answer.*

To the honorable LAFAYETTE DAWSON,
*Judge of the U. S. District Court for the District of Alaska:*

James Blake, the duly authorized mate of the schooner *Carolena*, for Munzie & Co., intervening in the interest of and on behalf of said Munzie & Co., owners and claimants of said schooner *Carolena*, her tackle, apparel, furniture, and cargo for amended

answer to the libel of information herein against said schooner, her tackle, apparel, furniture, and cargo, alleges as follows:

1st. That he denies each and every material allegation in said libel of information contained.

2nd. Denies that the said schooner *Carolena*, her tackle, apparel, furniture, and cargo, and the property appertaining thereto, as set forth in said libel of information, or any part thereof became forfeited to the United States.

3rd. Denies that said schooner, her captain, officers, and crew or any one of them were found engaged in killing fur seal within the limits of Alaska Territory and within the waters thereof in violation of section 1956 of the Revised Statutes of the United States, as set forth in said libel of information or at all.

4th. Denies that they killed any number of fur seal or other fur-bearing animals within the waters of Alaska or within said Territory of Alaska or in part thereof.

5th. That all and singular the premises herein set forth are true.

Wherefore he prays that this honorable court will be pleased to pronounce against the libel herein and that the same may be dismissed with costs to these claimants to be taxed.

W. CLARK AND D. A. DINGLEY,
*Proctors for Claimants.*

UNITED STATES, *District of Alaska, ss.*

James Blake, being first duly sworn upon his oath, says:

I am the mate of said schooner intervening for the within-named claimants. That I have read the foregoing answer and know the contents thereof and that the same is true as I verily believe.

JAMES BLAKE.

Subscribed and sworn to before me this 22d day of September, A. D. 1886.

ANDREW T. LEWIS,
*Clerk of the U. S. Dist. Court for the District of Alaska.*

On the 4th day of October, 1886, the following return was made to the monition heretofore cited, page 5:

SITKA, *District of Alaska, ss.*

Be it remembered that, in obedience to the annexed monition, I have attached the within-described property and now hold the same in my possession subject to the order of this honorable court.

And I have given due notice to all persons claiming said property to be and appear before this district court on the 4th day of October, 1886, at 10 o'clock a. m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claim and allegations in that behalf.

And I have, as ordered by the said court, caused said notice to be published, and the same has been published in the Alaskan, a newspaper published at Sitka, in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto, until said 4th day of October, 1886.

BARTON ATKINS,
*Marshal Dist. of Alaska.*

SITKA, ALASKA, *October 4th*, 1886.

On the same day was fixed the following decree:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*United States* vs. *The Schooner "Carolena."* *No.* 51.

The marshal having returned on the monition issued to him in the above-entitled action that in obedience thereto he has attached the said schooner *Carolena*, her tackle, apparel, boats, cargo, and furniture, and has given due notice to all persons claiming the same to appear before this court on this 4th day of October, 1886, at 10 o'clock a. m., at the District of Alaska, United States of America, then and there to interpose their claims and make their allegations in that behalf; and W. Clark, esq., proctor for Munzie & Co., of Victoria, B. C., having heretofore filed a claim to all of said property, on behalf of said Munzie & Co., the owners of said property, and no other persons having appeared and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamations having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, esq., and W. H. Payson, esq., appearing as advocates for said libellant, and W. Clark, esq., as advocate for said claimants; and said cause having been submitted to the

court for decision, and due deliberation being had in the premises, it is now ordered, sentenced, and decreed as follows:

1st. That all persons whatsoever other than said claimants be and they are hereby declared in contumacy and default.

2d. That said schooner *Carolena*, her tackle, apparel, boats, and furniture, and her cargo of 685 fur-seal skins, 12 pup-seal skins, and 1 hair-seal skin, and all other property found upon or appurtenant to said schooner, be and the same are hereby condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of court, the usual writ of *venditioni exponas* be issued to the marshal commanding him to sell all the said property and bring the proceeds into this court to be distributed according to law. Costs, to be taxed, are awarded against said claimants.

LAFAYETTE DAWSON,
*District Judge.*

Dated October 4th, 1886.

Done in open court this 4th day of October, 1886, at Sitka, District of Alaska, United States of America.

ANDREW T. LEWIS,
*Clerk.*

On the same day was filed the following motion to set aside decree:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *Munzie & Co. and schooner "Carolena." Motion to set aside decree.*

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and move the court to set aside the decree rendered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said decree.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimants.*

Which motion was overruled by the court, and on the same day was filed the following notice of appeal:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *Munzie & Co. and schooner "Carolena." Notice of Appeal.*

And now come W. Clark & D. A. Dingley, proctors for and in behalf of the claimants herein and notify this honorable court that they hereby appeal from the decree rendered herein to the circuit court having appellate jurisdiction over this district and that said appeal is taken upon questions of law and fact, and pray the court for an order on its clerk to prepare a completed transcript of the record herein, as the law requires.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimants.*

On the 9th day of February, 1887, was entered the following order:

*In the matter of the United States vs. schooner Onward, No. 49; schooner Thornton, No. 50; schooner Carolena, No. 51; schooner San Diego, No. 52; arms and ammunition schr. Sierra, No. 57, arms and ammunition schr. City of San Diego, No. 58.*

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of *venditioni exponas* do issue from the clerk of said court to the marshal of said district, for the sale of the attached vessels, with their tackle, cargoes, and furniture of whatsoever description, and of the arms and ammunition attached in said causes, and as to said attached vessels that the sale of the same (except the schooner *San Diego*, which shall be sold at Sitka), shall be made at Port Townsend, in the district of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco, in the District of California, and that sale of said schooner *San Diego*, and all the other attached property be made at Sitka, in the district of Alaska. Thirty days' notice of such sales to be given at each of the places where the same are to be made, by posting such notice, or by publication in some newspaper published at such places respectively. And that said marshal do have the

moneys arising from such sales, together with the writ commanding the same, at a district court of the United States for this the said district of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE U. S. DIST. COURT, DISTRICT OF ALASKA,
*Sitka, March* 10, 1887.

I, Andrew T. Lewis, clerk of the United States district court for the district of Alaska, do certify that the foregoing transcript of the record in the case of the United States *vs.* The schooner *Carolena*, her tackle, apparel, &c., on libel of information, pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of said original record, except the full text of the exhibits referred to in the testimony therein, of which the purport only is stated, and that said purport of said exhibits is correctly stated, as the same appears of record at my office and in my custody.

Witness my hand and the seal of said court the day and year above written.

[SEAL.] ANDREW T. LEWIS,
*Clerk.*

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[Inclosure 2.]

*Transcript of record in the case of the schooner Onward.*

The United States, libellant, *vs.* The Schooner *Onward*, her tackle, &c. On libel of information for being engaged in the business of killing fur-seal in Alaska waters.

On the 28th day of August, 1886, was filed the following libel of information:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.
AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,
*Judge of the said district court:*

The libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of the said United States, against the schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

That Charles A. Abbey, an officer in the Revenue Marine Service of the United States, and on special duty in the waters of the District of Alaska, heretofore, to wit, on the second day of August, 1886, within the limits of Alaska Territory and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring's Sea belonging to said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the *Onward*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney, as forfeited to the United States for the following causes:

That the said vessel or schooner was found engaged in killing fur seal within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true and within the admiralty and maritime jurisdiction of this court; and that by reason thereof, and by force of the statute of the United States in such case made and provided, the afore mentioned and described schooner or vessel, being a vessel of over twenty tons burden, her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the before-mentioned schooner or vessel may be cited in general and special to answer the premises, and that all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo, and furniture, may for the cause aforesaid, and others appearing, be condemned by the definite sentence and decree of this honorable court as forfeited to the use of said United States, according to the form of the statute of the said United States in such case made and provided.

M. D. BALL,
*U. S. District Attorney for the District of Alaska.*

Whereupon forthwith issued the following monition:

DISTRICT OF ALASKA, SCT:

The President of the United States of America to the marshal of the district of Alaska, greeting:

Whereas a libel of information hath been filed in the district court of the United States for the district of Alaska, on the 28th day of August, in the year 1886, by M. D. Ball, United States attorney for the district aforesaid, on behalf of the United States of America, against the schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, as forfeited to the use of the United States for the reasons and causes in the said libel of information mentioned, and praying that the usual process and monition of the said court in that behalf be made, and that all persons interested in the said schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, etc., may be cited in general and special to answer the premises and all proceedings being had, that the said schooner *Onward*, her tackle, apparel, boats, cargo, and furniture may for the causes in the said libel of information mentioned be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, to detain the same in your custody until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the district of Alaska, on the 4th day of October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Lafayette Dawson, judge of said court, and the seal thereof, affixed at the city of Sitka, in the District of Alaska, this 28th day of August, in the year of our Lord one thousand eight hundred and eighty-six, and of the Independence of the United States the one hundred and eleventh.

[SEAL.] ANDREW T. LEWIS,
*Clerk.*

On the 6th day of September, 1886, was filed the following affidavit:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*The United States of America* vs. *The Schooner Onward.*

UNITED STATES OF AMERICA, *District of Alaska, ss:*

C. A. Abbey, being duly sworn, deposes and says:

That he is, and at all times herein mentioned was, a captain in the United States Revenue Marine, and in command of the United States revenue-cutter *Corwin*.

That affiant and the following-named officers and men of said *Corwin* are material and necessary witnesses for the United States in the above-entitled action, to wit: J. W. Howison, lieutenant, C. F. Winslow, boatswain; Albert Leaf, seaman; J. C. Cantwell, lieutenant; J. H. Douglass, pilot, and J. U. Rhodes, lieutenant.

That owing to scarcity of provisions and fuel upon said cutter *Corwin*, the said *Corwin* and deponent and said witnesses will be obliged to, and are about to, go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than one hundred miles from the place of trial of said action before the time of said trial.

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That Daniel Monroe was master and in possession of the said schooner *Onward* at the time of seizure thereof.

C. A. ABBEY.

Subscribed and sworn to before me this 6th day of September, 1886.

ANDREW T. LEWIS,
*Clerk.*

On the same day was entered the following order:

*In the matter of the United States* vs. *Schooner Thornton, Case No.* 50; *Schooner Carolena, Case No.* 51; *Schooner Onward, Case No.* 49; *Schooner San Diego, Case No.* 52.

In the above entitled actions urgent necessity and good cause appearing therefor from the affidavits of C. A. Abbey, now on motion of M. D. Ball, United States district attorney for Alaska and counsel for the United States herein, it is ordered that the depositions of the witnesses C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglass, C. T. Winslow, Albert Leaf, C. Wilhelm, Thos. Singleton, and T. Lorensen be taken before the clerk of the said district court on Tuesday the 7th day of September, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached, at the office of said clerk at Sitka, Alaska, and if not completed on said evening, then the taking of said depositions to be continued by said clerk from time to time until completed. That notice of the time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Munroe, and Charles E. Raynor, and upon W. Clark, esq., attorney at law, on or before September 7th at 12 m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court this 6th day of September, 1886. Now at this time W. Clark, esq., being present in court, waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return of service:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*The United States of America* vs. *The Schooner Onward.*

To Daniel Monroe, greeting: You are notified that by order of Lafayette Dawson, judge of said district court, the depositions of C. A. Abbey, J. W. Howison, C. F. Winslow, Albert Leaf, J. C. Cantwell, J. H. Douglas, and J. U. Rhodes will be taken before the clerk of said district court at his office in Sitka, in said district, on Tuesday, September 7th, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached; and if not completed on said evening the taking of said depositions will be continued by said clerk from time to time until completed.

ANDREW T. LEWIS,
*Clerk.*

Dated, September 7th, 1886.

UNITED STATES OF AMERICA, *District of Alaska, ss:*

This is to certify that on the 7th day of September, 1886, before 12 o'clock noon of that day, I served the annexed notice on the within-named Daniel Monroe, at Sitka, District of Alaska, by then and there personally delivering to said Daniel Monroe a copy of said notice. And then and there gave him the privilege of being present at the taking of said depositions.

BARTON ATKINS,
*U. S. Marshal.*

Dated September 9th, 1886.

On the 10th day of September, 1886, were filed the following depositions:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*United States* vs. *The Schooner Onward. No.* 49.

Depositions of witnesses sworn and examined before me on the 7th day of September, A. D. 1886, at 7 o'clock p. m. of said day and on September 8th and 9th, 1886, thereafter, at the clerk's office of said court in Sitka, District of Alaska, United States of America, by virtue and in pursuance of the order of said court, made and entered in the above-entitled action on September 6th, A. D. 1886, directing that the testimony and depositions of said witnesses be taken before me at said first-mentioned time and place and at such subsequent times as the taking of the same might be continued to by me, in said action then and there pending in said district court between

the United States as plaintiff and the schooner *Onward* as defendant, on behalf of and at the instance of the said plaintiff, The United States and upon notice of the time and place of taking said depositions, served upon Daniel Monroe, the captain of said schooner, and in possession thereof at time of seizure, and upon W. Clark, esq., his attorney, the owners thereof being unknown and without the jurisdiction of this court.

Captain C. A. Abbey, being duly sworn, deposes and says:

I am a captain in the United States revenue-marine service, at present in command of the U. S. revenue steamer *Corwin*, on special duty in Alaskan waters, for the protection of the seal islands and of the Government interests generally.

Q. What were you doing and what occurred on 2nd of August last in the line of your duty?—A. Cruising in Behring Sea, about 115 miles southeast from St. George Island and in about latitude ——— and longitude ——— between four and five o'clock in the morning, when First Lieut. J. W. Howison reported to me that there was a schooner alongside of us, which, in answer to his hail, replied that she was taking fur seals here in Behring Sea. I then directed him to seize her and place her in charge of C. T. Winslow, boatswain of the *Corwin*, I having no commissioned officer to spare at that time. I then got a hawser to her and proceeded to Oonalashka Harbor, where I placed the vessel, cargo, tackle, furniture, and appurtenances in charge of Deputy U. S. Marshal Isaac Anderson, of Oonalashka, the cargo of fur-seal skins being stored in "Keuch," in one of the warehouses of the Alaska Commercial Company, and under seal.

The arms and ammunition I took aboard the *Corwin* and brought to Sitka, and delivered them to the U. S. marshal there. The said vessel, tackle, furniture, and cargo are now in the custody of the United States marshal of this district.

Q. Was this the vessel against which the libel of information is filed?—A. It is.

Q. Did this all occur within the waters of Alaska and the Territory of Alaska and within the jurisdiction of this court?—A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of (10) ten tons burden or over?—A. It did.

C. A. ABBEY.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

J. W. Howison being duly sworn deposes and says:

Q. State your name, age and occupation.—A. J. W. Howison, am over 21 years of age, 1st lieutenant in the U. S. revenue service and executive officer on the U. S. revenue steamer *Corwin* and was such on the 2d of August of thisycar.

Q. State what happened on August 2nd, 1886, in the line of your duty.—A. Between 4 and 6 a. m. I spoke the schooner *Onward* of Victoria, B. C., and asked if they were catching seal in Behring Sea and they answered yes. I reported the same to the commanding officer of the *Corwin*, who ordered the vessel seized. I lowered the boat with the boatswain, C. T. Winslow, and two men and a line, pulled to the schooner and put the boatswain and two men on board, told the captain of the schooner, Daniel Monroe, that I seized him for catching fur seal in Behring Sea. I ran a line from the *Onward* to the schooner *Carolena* already in tow and returned to the *Corwin*.

Q. State the place of this seizure as near as you can recollect.—A. The position is given as Lat. 55° north, and Long. 167° 40′ west; that is, about 110 or 115 miles to the south and east of St. George.

J. W. HOWISON.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

Lieut. John C. Cantwell being duly sworn deposes and says:

Q. State your name, occupation and age.—A. John C. Cantwell, 3rd lieutenant, U. S. Revenue Marine Service, at present on duty U. S. Revenue Steamer *Corwin* and over the age of twenty-one years—and was so during two years last past.

Q. Do you recognize this paper?—A. I do. It is the official inventory made by me on or about the 12th of August, 1886, of the furniture, tackle, appurtenances, and cargo of the schooner *Onward*. This inventory was made in consequence of the seizure of the vessel and gives a true and complete list of the furniture, tackle, appurtenances, and cargo of said vessel with the exception of the arms and ammunition. (Said inventory contains the usual ship's furniture of a vessel of the class of the

*Onward*, navigating instruments, lights, tools, sails, ship's stores, and 400 seal skins. The receipt of I. Anderson, deputy U. S. marshal at Oonalaska, August 14th, 1886, for said furniture, stores, and cargo, is attached thereto.)

"By witness" the item "400 seal skins" in said inventory means fur seal skins.

JOHN C. CANTWELL,
*3d Lieut. U. S. R. M.*

Subscribed and sworn to before me this 9th day of September, 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

John U. Rhodes, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes. I am over the age of 21 years and a lieutenant in the U. S. revenue marine and attached to the revenue steamer *Corwin*.

Q. Do you recognize this paper?—A. I do. This paper marked (Ex. M) is the clearance paper of the schooner *Onward*, Victoria, B. C. I found this paper on the said schooner at the time of her seizure and then and there took possession of it. (Said clearance describes the *Onward* as a British schooner of 35.20 tons, navigated with four men, wood built, and bound for Pacific Ocean and Behring Sea, having on board ballast for fishing and hunting voyage. It is dated at Victoria, B. C., April 12th, 1886.)

Q. What arms and ammunition if any did you find aboard the schooner *Onward* at the time of her seizure?—A. 12 guns, 1 keg powder partly filled, 1 can powder, ½ bag of buck-shot, 2 small bags caps.

Q. What was done with these arms and ammunition?—A. They were brought to Sitka on the *Corwin* and turned over to the U. S. marshal at Sitka, and are now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

JOHN U. RHODES, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes; lieut. U. S. Revenue Marine; at present on the U. S. revenue steamer *Corwin;* and over the age of 21 years.

Q. Was any other property seized upon the schooner *Onward* except what is included in the general inventory?—A. There was a box containing clothing and nautical instruments; the box was marked Daniel Monroe, master of the schooner *Onward*.

Q. What was done with this property?—A. I turned it over to the United States marshal at Sitka and it is now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

Charles T. Winslow, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. My name is Charles T. Winslow; 48 years of age. I am a boatswain on the revenue-cutter *Corwin*, and was so on August 2nd, 1886.

Q. State what occurred on the last mentioned day.—A. At about 5 or 6 a. m. I was ordered by Lieut. Howison to go on board the schooner *Onward*, which he had seized, and I did so.

Q. What did you see on board, if anything?—A. About amidships on deck I saw 20 or 30 dead fur seal that had not been skinned, and some of them were bleeding. There were nine canoes on board with bloody water in them and with spears and outfit suitable for seal killing. Capt. Monroe, of the *Onward*, then told me he had caught 25 fur seal the day before the seizure and 125 the day before that. This was in answer to my statement that the *Carolena* had 75 seal in her boats.

CHARLES T. WINSLOW.

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

Albert Leaf, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. Albert Leaf; over 21 years of age, and a seaman employed on the revenue-cutter *Corwin*, and was so on the 2nd day of August last.

Q. What happened on the last named day in connection with the schooner *Onward?*—A. I was placed on board the schooner *Onward* by Lieut. Howison when the vessel was seized. I saw dead fur seal with fresh blood on them on the forward deck and fresh fur-seal skins on the deck and there were salted fur-seal skins in the hold. I saw nine canoes with blood in them and spears equipped for seal killing. All this was upon the schooner *Onward* at the time of her seizure.

ALBERT LEAF.

Subscribed and sworn to before me this 8 day of September, A. D. 1886, after having been read over by me to deponent.

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*The United States* vs. *The Schooner "Onward."* *No.* 49.

Whereas, on the 6th day of September, 1886, the said district court duly made and entered in the journal of said court an order directing that the testimony and depositions of the witnesses, C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, C. T. Winslow, and Albert Leaf, be taken before me, the clerk of said court, at the time or times and place and upon such notice as are specified in said order:

Now, therefore, this is to certify that in pursuance of said order, on September 7th, 1886, at 7 o'clock p. m., each and all of the above-named witnesses appeared before me at the clerk's office of said court, at Sitka, district of Alaska, United States of America; that M. D. Ball, esq., district attorney of said court and district, and W. H. Payson, esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, esq., then and there appeared on behalf of and as attorney and proctors for the said schooner and her owners herein, and Daniel Munroe then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th of September, 1886, and completed the same on said last-named day. That the said parties by their said attorneys and proctors then and there appeared, and were present on each of said last-named days and at all times during the takings of said depositions. That each of said witnesses was then and there duly cautioned and sworn by me, that the evidence he should give in said action should be the truth, the whole truth, and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then read the same over to him; and he then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

That the foregoing depositions are the depositions of said witnesses then and there taken before me as aforesaid. That due notice of the taking of said depositions was given as required by said order.

Witness my hand and the seal of said district court this 9th day of September, A. D. 1886.

[SEAL.] ANDREW T. LEWIS,
*Clerk of the United States District Court in and for the district of Alaska, United States of America.*

On September 20th was filed the following amended libel of information:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA. AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,
*Judge of said district court:*

The amended libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of the said United States, and being

present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:

That C. A. Abbey, an officer in the Revenue Marine Service of the United States, duly commissioned by the President of the United States, in command of the United States revenue-cutter *Corwin*, and on special duty in the waters of the district of Alaska heretofore, to wit, on the 2nd day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit:

1 schooner, *Onward*, of Victoria, B. C., 9 canoes, carpenter's tools, caulking implements, 3 anchors, chronometer, clock, nautical instruments, sails, running rigging, rope, twine, lamps, oil, 3 tons of salt, casks and buckets, 400 fur seal skins, provisions, 12 guns and ammunition for same, and all other property found upon or appurtenant to said schooner. That said C. A. Abbey was then and there duly commissioned and authorized by the proper department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes:

That said vessel and her captain, officers, and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Oonalaska in said Territory, and delivered into the keeping of Isaac Anderson, a deputy United States marshal of this district, with the exception of said arms and ammunition, which latter were brought into the port of Sitka, in said district, and turned over to the United States marshal of this district, and all said property is now within the judicial district of Alaska, United States of America.

And the said M. D. Ball, attorney aforesaid, further informs and alleges:

That on the 2nd day of August, 1886, James Marketich and certain other persons whose names are unknown to said United States attorney, who were then and there engaged on board of the said schooner *Onward* as seamen and seal hunters, did under the direction and by the authority of Daniel Monroe, then and there master of said schooner, engage in killing and did kill, in the Territory and district of Alaska, and in the waters thereof, to wit, 20 fur seal, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 400 fur seal skins, and other goods so seized on board of said schooner *Onward* constituted the cargo of said schooner at the time of the killing of said fur seals, and at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States, and of this honorable court, and that by reason thereof, and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over 20 tons burden, and her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf against said schooner and all said hereinbefore described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process, why said forfeiture should not be decreed; and that, after due proceedings are had, all of said property be adjudged decreed and condemned as forfeited to the use of the United States; and for such other relief as may be proper in the premises.

M. D. BALL,
*United States District Attorney for the District of Alaska.*

Dated September 20th, 1886.

On the same day was filed the following claim:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA. IN ADMIRALTY.

*In the matter of the libel of information against the schooner Onward, her tackle, apparel, furniture, and cargo. Claim of master for owner.*

And now Daniel Monroe, master of the schooner *Onward*, intervening for the interests of Charles Spring & Co., of Victoria, B. C., the owners of the schooner *Onward*, her tackle, apparel, furniture, and cargo, as set forth in the libel of information herein, appears before this honorable court and makes claim to the said schooner *Onward*, her tackle, apparel, furniture, and cargo, as set forth in the said libel of in-

formation and as the same are attached by the marshal under process of this court at the instance of M. D. Ball, esq., United States district attorney for the district of Alaska.

And the said Daniel Monroe avers that the said Charles Spring & Co. were in possession of the said schooner *Onward* at the time of the attachment thereof, and that the said Charles Spring & Co. above named are the true bona fide owners of the said schooner, her tackle, apparel, furniture, and cargo, as seized by the marshal aforesaid, and that no other person is the owner thereof.

Wherefore he prays to defend accordingly.

DANIEL MONROE.

Subscribed and sworn to before me this 18th day of September, A. D. 1886.

[SEAL.] ANDREW T. LEWIS,
*Clerk of the U. S. Dist. Court for the District of Alaska.*

W. CLARK & D. A. DINGLEY,
*Proctors for Claimant.*

On the same day was filed also the following demurrer:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.

*United States* vs. *Charles Spring and Schooner "Onward." Demurrer.*

The demurrer of Charles Spring & Co., claimants of the property proceeded against in the above cause, to the amended information filed herein.

1st. The said claimants by protestation, not confessing all or any of the matters in said amended information to be true, demurs thereto and says that the said matters in manner and form, as the same are in said information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2d. The said claimants by protestation deny that this court has jurisdiction to determine or try the question hereby put in issue.

3d. And that said claimants are not bound by law to answer the same.

Wherefore the said claimants, Charles Spring & Co., pray that the said information may be dismissed with costs.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimants.*

Which demurrer was overruled by the court.

On the same day was filed the following answer of claimants:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *Charles Spring & Co. and Schooner "Onward." Answer.*

The answer of Charles Spring & Co., claimants and owners of said schooner *Onward*, her tackle, apparel, furniture, and cargo, as the same are set forth in the information filed herein in behalf of the United States.

And now comes Charles Spring & Co., claimants as aforesaid, and for answer to the said information against the said schooner *Onward*, her tackle, apparel, furniture, and cargo, as set forth in said information, say that the said schooner *Onward*, her tackle, apparel, furniture, and cargo, as set forth in the information mentioned, did not, nor did any part thereof, become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore the said claimants pray that said information be dismissed with costs to these claimants attached.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimants.*

UNITED STATES, *District of Alaska, ss:*

Personally appeared before me W. Clark, who, being first duly sworn upon his oath, says:

I am the duly authorized proctor for the claimants above-named, that the foregoing answer is true as I verily believe. That the reason this affidavit is made by me and not by claimants is because said claimants are non-residents and are absent from the District of Alaska.

(This was treated as subscribed and sworn to by Daniel Munroe, master.)

Subscribed and sworn to before me this day of September, A. D. 1886.

On September 22d, 1886, were filed the following exceptions to answer:

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*United States* vs. *The Schooner Onward. No.* 49.

The said libellant hereby excepts to the sufficiency of the defendant's answer herein, on the following grounds:

1st. Said answer is not properly or at all verified as required by rule 27 of the United States admiralty rules.

2nd. Said answer is not full, explicit, or distinct to each or any allegation of the libel herein, as required by said rule.

3rd. Said answer does not deny or admit any of the allegations or facts in said libel, but merely denies a conclusion of law.

M. D. BALL AND W. H. PAYSON,
*Proctors for Libellant.*

SEPT. 21, 1886.

Which exceptions were sustained by the court, and on the same day was filed the following amended answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA. IN ADMIRALTY.

*United States* vs. *Charles Spring & Co. and schooner Onward. No.* 49. *Amended answer.*

To the honorable LAFAYETTE DAWSON,
*Judge of the United States district court for the district of Alaska:*

Daniel Monroe, master of the schooner *Onward*, intervening for the interests and in behalf of Charles Spring & Co., owners and claimants of said schooner *Onward*, her tackle, apparel, furniture, and cargo, for amended answer to the libel of information herein against said schooner, her tackle, apparel, furniture, and cargo, alleges as follows:

1st. That he denies each and every material allegation in said libel of information contained.

2nd. Denies that the said schooner *Onward*, her tackle, apparel, furniture, and cargo, and the property appertaining thereto as set forth and described in said libel of information or any part thereof became forfeited to the United States.

3rd. Denies that said schooner, her captain, officers, and crew or any one of them were found engaged in killing fur seal within the limits of Alaska waters and within the Territory of Alaska in violation of section 1956 of the Revised Statutes of the United States as set forth in said libel of information or at all.

4th. Denies that they killed any number great or less, or any number at all of fur seal or other fur-bearing animals within the waters of Alaska, or within the said Territory of Alaska or in any part thereof.

5th. That all and singular the premises herein set forth are true.

Wherefore said master prays that this honorable court will be pleased to pronounce against the libel herein and that the same may be dismissed with costs to these claimants attached.

W. CLARK AND D. A. DINGLEY,
*Proctors for Claimants.*

UNTED STATES, *District of Alaska, ss:*

Daniel Monroe, being first duly sworn, upon his oath says:

I am the master and captain of the schooner *Onward*. That I have heard read the foregoing answer and know the contents thereof and that the same is true of my own personal knowledge.

DANIEL MONROE.

Subscribed and sworn to before me this 22nd day of September, A. D. 1886.

ANDREW T. LEWIS,
*Clerk of the U. S. Dist. Court for the District of Alaska.*

On the 4th day of October, 1886, was filed the following return to the monition issued on the 28th day of August, 1886, cited on page 3 of this transcript:

SITKA, *District of Alaska, ss:*

Be it remembered that, in obedience to the annexed monition, I have attached the within-described property and now hold the same in my possession subject to the order of this honorable court.

And I have given due notice to all persons claiming said property to be and appear before this district court on the 4th day of October, 1886, at 10 o'clock a. m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claims and allegations in that behalf.

And that I have, as ordered by said court, caused said notice to be published, and the same has been published in the Alaskan, a newspaper published at Sitka, in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto, until said 4th day of October, 1886.

BARTON ATKINS,
*Marshal, District of Alaska.*

SITKA, ALASKA, *October 4th*, 1886.

## On the same day the following decree was entered:

IN THE UNITED STATES DISTICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*United States* vs. *The Schooner Onward. No.* 49.

The marshal having returned on the monition issued to him in the above-entitled action that in obedience thereto he has attached the schooner *Onward*, her tackle, apparel, boats, cargo, and furniture, and has given due notice to all persons claiming the same to appear before this court on this 4th day of October, 1886, at 10 o'clock a. m., at the District of Alaska, United States of America, then and there to appear and make their allegations in that behalf; and Daniel Monroe, the captain of said vessel, having heretofore filed a claim to all said property on behalf of Charles Spring & Co., of Victoria, B. C., the owner thereof, and no other persons having appeared, and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamation having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, esq., and W. H. Payson, esq., appearing as advocates for the said libellant, and W. Clark as advocate for said claimants; and the cause having been submitted to the court for decision, and due deliberation being had in the premises, it is now ordered, sentenced, and decreed as follows:

1st. That all persons whatsoever other than said claimants be and they are hereby declared in contumacy and default.

2nd. That said schooner *Onward*, her tackle, apparel, boats, and furniture and her cargo of 400 fur-seal skins, and all other property found upon or appurtenant to said schooner, be and the same are hereby condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of court the usual writ of venditioni exponas be issued to the marshal commanding him to sell all of said property and bring the proceeds into this court to be distributed according to law. Costs to be taxed are awarded against said claimants.

LAFAYETTE DAWSON,
*District Judge.*

Dated October 4th, 1886.

Done in open court this 4th day of October, 1886, at Sitka, district of Alaska, United States of America.

ANDREW T. LEWIS,
*Clerk.*

## On the same day the following motion was filed:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *Charles Spring & Co. and schooner "Onward." Motion to set aside decree.*

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and moves the court to set aside the decree rendered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said decree.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimants.*

Which motion was by the court overruled, and thereupon the following notice of appeal was filed:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *Charles Spring & Co. and schooner "Onward." Notice of appeal.*

And now come W. Clark & D. A. Dingley, proctors for and in behalf of the claimants herein, and notifies this honorable court that they hereby appeal from the decree rendered herein to the circuit court having appellate jurisdiction over this district, and that said appeal is taken on questions of law and fact, and pray the court for an order on its clerk to prepare a complete transcript of the record herein, as the law requires.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimants.*

On the 9th day of February, 1887, was entered the following order:

*In the matter of the United States* vs. *Schooner Onward, No.* 49. *Schooner Thornton, No.* 50. *Schooner Carolena, No.* 51. *Schooner San Diego, No.* 52. *Arms and Ammunition Schr. Sierra, No.* 57. *Arms and Ammunition Schr. City of San Diego, No.* 58.

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of venditioni exponas do issue from the clerk of said court to the marshal of said district, for the sale of the attached vessels, with their tackle, cargoes and furniture of whatsoever description, and of the arms and ammunition attached in said causes. And as to said attached vessels that the sale of the same (except the schooner *San Diego*, which shall be sold at Sitka) shall be made at Port Townsend in the district of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco in the District of California, and that sale of said schooner *San Diego*, and all the other attached property be made at Sitka in the district of Alaska. Thirty days notice of such sales to be given at each of the places where the same are to be made, by posting such notice or by publication in some newspaper published at such places respectively. And that said marshal do have the moneys arising from such sales, together with the writ commanding the same, at a district court of the United States for this, the said district of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE, U. S. DIST. COURT, DISTRICT OF ALASKA,
*Sitka, March* 10, 1887.

I, Andrew T. Lewis, clerk of the said court, do certify that the foregoing transcript of the record in the case of the United States *vs.* the schooner *Onward*, her tackle, apparel, &c., on libel of information, &c., pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom, and of the whole of such original record, except the full text of the exhibits referred to in the testimony therein, the purport of which only is stated, and that the said purport of exhibits is correctly stated, as the same appears of record at my office and in my custody.

[SEAL.] ANDREW T. LEWIS,
*Clerk.*

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[Inclosure 3.]

*Transcript of record in the case of the schooner Thornton.*

The United States, libellant, *vs.* The Schooner *Thornton*, her tackle, &c. On libel of information for being engaged in the business of killing fur seal in Alaska.

On the 28th day of August, 1886, was filed the following libel of information:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.
AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,
*Judge of said district court:*

The libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of said United States, and being present here in court in his proper person, in the name and on behalf of the said United States, against the schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

That Charles A. Abbey, an officer in the revenue-marine service of the United States and on special duty in the waters of the district of Alaska, heretofore, to wit, on the first day of August, 1886, within the limits of Alaska Territory and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the ship or vessel commonly called a schooner, the *Thornton*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons to the said attorney unknown, as forfeited to the United States for the following causes:

That the said vessel or schooner was found engaged in killing fur seal within the limits of Alaska Territory and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

And the said attorney saith that all and singular the premises are and were true and within the admiralty and maritime jurisdiction of this court; and that by reason thereof, and by force of the statutes of the United States in such cases made and provided, the aforementioned and described schooner or vessel, being a vessel of over twenty tons burden, her tackle, apparel, boats, cargo, and furniture, became and are forfeited to the use of the said United States, and that said schooner is now within the district aforesaid.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf, and that all persons interested in the beforementioned and described schooner or vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said schooner or vessel, her tackle, apparel, boats, cargo, and furniture may, for the cause aforesaid, and others appearing, be condemned by the definite sentence and decree of this honorable court, as forfeited to the use of the said United States according to the form of the statute of the said United States in such cases made and provided.

M. D. BALL,
*United States District Attorney for the District of Alaska.*

Whereupon forthwith issued the following monition:

DISTRICT OF ALASKA SCT:

The President of the United States of America to the marshal of the district of Alaska greeting:

Whereas a libel of information hath been filed in the district court of the United States for the District of Alaska, on the 28th day of August, in the year 1886, by M. D. Ball, United States attorney for the District aforesaid, on behalf of the United States of America against the schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, as forfeited to the use of the United States for the reasons and causes in said libel of information mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, etc., may be cited in general and special to answer the premises and all proceedings being had, that the said schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture may for the causes in the said libel of information mentioned be condemned as forfeited to the use of the United States.

You are therefore hereby commanded to attach the said schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, to detain the same in your custody until the further order of the court respecting the same, and to give notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information, that they be and appear before the said court to be held in and for the District of Alaska on the 4th day of October, 1886, at 10 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to interpose a claim for the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Lafayette Dawson, judge of said court, and the seal thereof affixed at the city of Sitka, in the District of Alaska, this 28th day of August, in the year of our Lord one thousand eight hundred and eighty-six, and of the independence of the United States the one hundred and eleventh.

[SEAL.] ANDREW T. LEWIS,
*Clerk.*

On September 6th, 1886, was filed the following affidavit:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*The United States of America* vs. *The Schooner Thornton.*

UNITED STATES OF AMERICA, *District of Alaska, ss:*

C. A. Abbey, being duly sworn, deposes and says:

That he is and at all times herein mentioned was a captain in the United States revenue marine, and in command of the United States revenue-cutter *Corwin.*

That affiant and the following-named officers of said *Corwin* are material and necessary witnesses for the United States in the above-entitled action: J. C. Cantwell, lieutenant; J. U. Rhodes, lieutenant; J. H. Douglass, pilot.

That owing to scarcity of provisions and fuel upon said cutter *Corwin*, the said *Corwin* and deponent and said witnesses will be obliged to and are about to go to sea within five days, and out of the district in which the said case is to be tried, and to a greater distance than one hundred miles from the place of trial of said action before the time of said trial.

That there is urgent necessity for taking the depositions of affiant and said witnesses forthwith.

That Hans Guttormsen was master and in posession of said schooner *Thornton* at the time of seizure thereof.

C. A. ABBEY.

Subscribed and sworn to before me this 6th day of September, 1886.

ANDREW T. LEWIS,
*Clerk.*

On the same day was entered the following order:

*In the matter of the United States* vs. *Schooner Thornton, Case No.* 50; *Schooner Carolena, case No.* 51; *Schooner Onward, case No.* 49; *Schooner San Diego, case No.* 52.

In the above-entitled actions urgent necessity and good cause appearing therefor from the affidavits of C. A. Abbey, now, on motion of M. D. Ball, United States district attorney for Alaska, and counsel for the United States herein, it is ordered that the depositions of the witnesses C. A. Abbey, J. W. Howison, J. C. Cantwell, J. U. Rhodes, J. H. Douglass, C. T. Winslow, Albert Leaf, C. Wilhelm, Thomas Singleton, and T. Lorensen be taken before the clerk of the said district court on Tuesday, the 7th day of September, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached at the office of said clerk at Sitka, and if not completed on said evening, then the taking of said depositions to be continued by said clerk from time to time until completed. That notice of the time and place of taking said depositions be served by the marshal of said district on Hans Guttormsen, James Blake, Daniel Munroe, and Charles E. Raynor, and upon W. Clark, esq., attorney at law, on or before September 7th at 12 m., and that such shall be due and sufficient and reasonable notice of the taking of said depositions.

Done in open court this 6th day of September, 1886, now at this time W. Clark, esq., being present in court, waives service of notice.

On the 7th day of September, 1886, was filed the following notice and return:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*United States of America* vs. *The Schooner Thornton.*

To Hans Guttormsen greeting: you are notified that by order of Lafayette Dawson, judge of said district court, the depositions of C. A. Abbey, J. C. Cantwell, J. U. Rhodes, and J. H. Douglas will be taken before the clerk of said district court at his

office in Sitka in said district on Tuesday, September 7th, 1886, at 7 o'clock p. m., or as soon thereafter as the matter can be reached, and if not completed on said evening, the taking of said depositions will be continued by said clerk from time to time until completed.

Dated September 7, 1886.

ANDREW T. LEWIS,
*Clerk.*

UNITED STATES OF AMERICA, } ss.
DISTRICT OF ALASKA. }

This is to certify that on the 7th day of September, 1886, before 12 o'clock noon of that day, I served the annexed notice on the within named Hans Guttormsen, at Sitka, District of Alaska, by then and there personally delivering to said Hans Guttormsen a copy of said notice, and then and there gave him the privilege of being present at the taking of said depositions.

Dated September 9th, 1886.

BARTON ATKINS,
*U. S. Marshal.*

## On September 10th, 1886, were filed the following depositions:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*The United States* vs. *The Schooner Thornton. No.* 50.

Depositions of witnesses sworn and examined before me on the 7th day of September, A. D. 1886, at 7 o'clock p. m. of said day, and on September 8th and 9th, 1886, thereafter, at the clerk's office of said court in Sitka, District of Alaska, United States of America, by virtue and in pursuance of the order of said court, made and entered in the above entitled action on September 6th, 1886, directing that the testimony and depositions of said witnesses be taken before me at said first mentioned time and place and at such subsequent times as the taking of the same might be continued to by me, in said action then and there pending in said district court between the United States as plaintiff and the schooner *Thornton* as defendant, on behalf and at the instance of the said plaintiff, the United States, and upon notice of the time and place of the taking of said depositions, served upon Hans Guttormsen, the captain of said schooner and in possession thereof at time of seizure, and upon W. Clark, esq., his attorney, the owners thereof being unknown and without the jurisdiction of this court.

Captain C. A. Abbey, being duly sworn, desposes and says:

Q. State your name and occupation.—A. Captain C. A. Abbey, in the United States Revenue Marine Service, at present in command of the U. S. Revenue Steamer *Corwin*, on special duty in Alaskan waters, for the protection of the seal islands and of the Government interests in Alaska generally.

Q. What were you doing and what occurred on the 1st day of August last in the line of your duty?—A. I was cruising in Behring Sea, about 70 miles south-southeast from St. George Island, in about latitude —— and longitude ——. I found the 4 boats of the British steam schooner *Thornton*, of Victoria, B. C., engaged in killing fur seal. Each boat had in her from three to eight freshly-killed seal, arms, and ammunition, rowers, and hunters, who stated that they belonged to the said schooner *Thornton*, and were engaged in taking or killing fur seal. Some of them, if not all, were seen shooting at the fur seal which were swimming in their neighborhood. On this evidence I caused the vessel to be seized by Lieut. Cantwell; took her in tow and proceeded with her to Oonalaska, where I placed the vessel, cargo, tackle, furniture and appurtenances in charge of Deputy U. S. Marshal Isaac Anderson, of Oonalaska, the cargo of fur-seal skins being stored in "Keuch," in one of the warehouses of the Alaska Commercial Company and under seal. One boat of the *Thornton* was sent to Sitka by the schooner *San Diego* and placed in custody of the U. S. marshal at Sitka. All of this property is now in the custody of the U. S. marshal at Sitka, including her arms and ammunition, which I brought to Sitka on the *Corwin*.

Q. Was this the vessel against which the libel of information is filed?—A. It is.

Q. Did this all occur within the waters of Alaska and the Territory of Alaska and within the jurisdiction of this court?—A. It did.

Q. Did this occur within the waters of the sea navigable for vessels of ten tons burden or over?—A. It did.

C. A. ABBEY.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.]

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

Lieut. John C. Cantwell, being duly sworn, deposes and says:

Q. State your name, occupation, and age.—A. John C. Cantwell, 3rd lieutenant U. S. Revenue Marine Service; at present on duty U. S. revenue steamer *Corwin*, and over the age of twenty-one years.

Q. Were you so on the 1st day of August last?—A. I was.

Q. State what occurred on that day in the line of your duty.—A. I saw a small boat on the port bow; we came up to her and found she had about 8 fur seal aboard. The men in the boat were armed with breech-loading rifles. In answer to the commanding officer the men admitted they were killing fur seal. Shortly after we picked up a second boat and then sighted the schooner *Thornton*. There were dead seal in the second boat. I did not examine the other boats; I was sent on board the schooner; saw Hans Guttormsen apparently acting as captain and Henry Norman as mate. I asked them what they were doing. The captain replied, catching seals. I signaled this to Capt. Abbey, who directed me to seize her, which I did, and the *Corwin* took the schooner in tow. The fur seals in the boats were bleeding and must have been killed within a few hours.

Q. How many men were on board of the *Thornton* at the time of seizure?—A. About fifteen.

Q. Was this a reasonable number for ordinary purposes of commerce and navigation?—A. It was an unusually large number for the size of the vessel.

Q. Do you recognize this paper?—A. I do. It is the official inventory made by me of the furniture, tackle, and cargo of the schooner *Thornton* (inventory embraces the usual furniture, rigging, nautical instruments, boats, and stores of a vessel of this class with a cargo of 403 seal skins, 3 seal pup skins, and one hair seal skin, and they are receipted for by I. Anderson, deputy U. S. marshal, Oonalaska, August 14th, 1886); the item, 403 seal skins, mentioned in the inventory, are *fur* seal skins; this inventory gives a full and correct list of all the furniture, tackle, and cargo of said vessel, with the exception of the following: Arms and ammunition, octant, and one chronometer. There is one boat belonging to the *Thornton* that was sent down on the *San Diego* and included in the inventory of the *San Diego*. The *Thornton* had four boats.

JOHN C. CANTWELL,
*3d Lieut., U. S. R. M.*

Subscribed and sworn to before me, this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.] ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

John U. Rhodes being duly sworn deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes, over 21 years of age, and lieutenant in the U. S. Revenue Marine and attached to the revenue steamer *Corwin*, and was so on the 1st day of August, 1886.

Q. State what happened on the last-named day in connection with the schooner *Thornton*.—A. I was on the *Corwin* at the time the *Thornton* was seized on that day. We first picked up a boat bearing the name *Thornton*; it had about 8 dead fur seal in it; the men in the boat had breech-loading rifles; we afterwards picked up another boat and then sighted the schooner *Thornton*, and went on board and was put in charge of her. We afterwards picked up two more boats; the men in the boats claimed that the boats belonged to the *Thornton* and were put on board of her. There were between 15 and 20 dead fur seal on deck and one hair seal. These seal were most of them bleeding and evidently recently killed. The captain and several of the hunters said they had killed 21, I think it was, fur seals that day, and would have got more if they had had more daylight and if the cutter had not come up.

Q. Do you recognize these papers?—A. I do. This paper marked (Ex. G) is the clearance paper of the schooner *Thornton* (*this paper represents the British steam schooner Thornton, Hans Guttormsen, master,* $22\frac{39}{95}$ *tons, navigated with* 15 *men, bound for the Pacific Ocean, Behring Sea, and Okhotsk Sea, on a hunting and fishing voyage, as having cleared from Victoria, B. C., May* 15*th*, 1886). This paper marked (Ex. H) is her bill of health (issued same date and place with clearance). I found these papers in the schooner *Thornton* at the time of seizure and then took possession of them.

Q. What was the list of arms and ammunition found aboard the schooner *Thornton* at the time of seizure?—A. 4 rifles, 6 shotguns, 867 shotgun cartridges, 420 rifle-gun cartridges, 108 lbs. powder, 1 keg powder partly filled, 2 bags bullets, 11 bags buckshot, 5 boxes of wads, 3½ boxes primers.

Q. What has become of these arms and ammunition?—A. They were delivered to the U. S. marshal at Sitka, and are now in his custody.

JOHN U. RHODES,
*Lieut. U. S. R. M.*

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to the deponent.

[SEAL.] ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

John U. Rhodes, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. John U. Rhodes; Lieut. U. S. revenue marine; at present on duty on the U. S. revenue steamer *Corwin;* and over the age of 21 years.

Q. State what nautical instruments, if any, were seized on the schooner *Thornton*, except such as are included in her general inventory.—A. One chronometer, No. 1374, made by Kessels, and one octant.

Q. What has become of this property?—A. I turned it over to the U. S. marshal at Sitka, and it is now in his custody.

JOHN U. RHODES.

Subscribed and sworn to before me this 9th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.] ANDREW T. LEWIS,
*Clerk U. S. Dist. Court.*

J. H. Douglas, being duly sworn, deposes and says:

Q. State your name, age, and occupation.—A. J. H. Douglas; am over 21 years; am a pilot in the Revenue-Marine Service of the United States, and have been so for the 7 years last past. I am now, and on the first of August, 1886, was, pilot on the revenue steamer *Corwin*.

Q. State what occurred on the last-named day in connection with the schooner *Thornton*.—A. We sighted a boat on our port bow and soon after saw another boat; steamed to the first boat and ordered her to come alongside, which she did. The name steamer *Thornton* was on the stern of the boat. There were two or three men in the boat with arms and 6 or 8 dead fur seal, which had the appearance of having been lately killed. I asked the men what luck they had had. One of them replied "We have 6 or 8, but not as good as some days." We took possession of the boat and contents by order of Capt. Abbey. We then picked up the second boat, finding it engaged in the same business; then we sighted a schooner drifting without sail or steam, which proved to be the steam schooner *Thornton*. On coming up with her she was seized, by order of Capt. Abbey, and taken in tow. We then picked up two more boats belonging to the *Thornton* having dead fur seal on board. This was in Behring Sea, about 65 miles southeast from St. Georges Island and about 500 or 600 miles to the eastward of the western boundary line of Alaska Territory.

Q. State what experience you have had in the fur-sealing business and your knowledge of the habits of the fur seal.—A. I have been cruising for more than 15 years off and on in Alaskan waters, always as an officer or pilot, and have visited the Pribiloff Islands, St. Paul, and St. George several hundred times and am perfectly familiar with the sealing business as conducted on those islands, and understand the migrating habits of the fur seals. From about the 1st of May to about the 1st of July of each year the fur seal is migrating north and mostly through the Unimak and Akutan passes to these islands for breeding purposes. They go to no other place in the known world except these islands and Copper Island for breeding purposes.

After the breeding season of about a month they begin to migrate south, and until November of each year are migrating south through Behring Sea. During this season from May till November the fur seal are plenty in the waters adjoining the Pribiloff Islands, and are migrating to and from these islands, and are at all times very plenty between Unimak Pass and said islands in a track about 30 miles wide which seems to be their highway to and from said islands. The schooner *Thornton* and her boats when seized were directly on this track.

J. H. DOUGLASS.

Subscribed and sworn to before me this 8th day of September, A. D. 1886, after having been read over by me to deponent.

[SEAL.] A. T. LEWIS,
*Clerk U. S. Dist. Court.*

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*The United States* vs. *The Schooner "Thornton."* *No.* 50.

Whereas on the 6th day of September, 1886, the said district court duly made and entered in the journal of said court an order in the above-entitled action directing that the testimony and depositions of the witnesses, C. A. Abbey, J. C. Cantwell, J. U. Rhodes, and J. H. Douglass be taken before me, the clerk of said court, at the time or times and place and upon such notice as was specified in said order.

Now, therefore, this is to certify, that in pursuance of said order, on September 7th, 1886, at 7 o'clock p. m., each and all of the above-named witnesses appeared before me at the clerk's office of said court at Sitka, district of Alaska, United States

of America; that M. D. Ball, esq., dist. attorney of said court and district, and W. H. Payson, esq., appeared then and there on behalf of and as attorneys and proctors for the United States, the libellant herein; and W. Clark, esq., then and there appeared on behalf of and as attorney and proctor for the said schooner and her owners herein; and Hans Guttormsen then and there appeared in pursuance of notice served upon him.

That I was unable to complete the taking of said depositions on said 7th day of September, 1886, and I continued the taking thereof on the 8th and 9th of September, 1886, and completed the same on said last named day. That the said parties by their said attorneys and proctors then and there appeared and were present on each of said last named days and at all times during the taking of said depositions. That each of said witnesses was first duly cautioned and sworn by me, then and there, that the evidence he should give in said action should be the truth, the whole truth, and nothing but the truth, and thereafter each of said witnesses was then and there examined before me, and I then and there took down the statement and testimony of each of said witnesses, and reduced the same to writing in his presence, and then and there read the same over to him; and he, then and there, after the same had been so reduced to writing and read over to him, subscribed the same in my presence, and swore to the truth thereof.

That the foregoing depositions are the depositions of said witnesses then and there taken before me as aforesaid. That due notice of the taking of said depositions was given as required by said order.

In witness whereof I have hereunto set my hand and the seal of said district court this 9th day of September, 1886.

ANDREW T. LEWIS,
*Clerk U. S. Dist. Court in and for the District of Alaska, United States of America.*

On the 20th day of September, 1886, was filed the following claim of master for owner:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA. IN ADMIRALTY.

*In the matter of the libel of information against the schooner Thornton, her tackle, apparel, furniture, and cargo. Claim of master for owner.*

And now Hans Gutormsen, master of the schooner *Thornton*, intervening for the interest of J. D. Warren, of Victoria, B. C., the owner of the said schooner *Thornton*, her tackle, apparel, furniture, and cargo, as set forth in the libel of information herein, appears before this honorable court and makes claim to the said schooner *Thornton*, her tackle, apparel, furniture, and cargo, as set forth in the said libel of information, and as the same are attached by the marshal under process of this court at the instance of M. D. Ball, esq., United States district attorney for the district of Alaska.

And the said Hans Guttormsen avers that the said J. D. Warren was in possession of the said schooner at the time of the attachment thereof.

And that the said J. D. Warren, above named, is the true and bona fide owner of the said schooner, her tackle, apparel, cargo, and furniture, as seized by the said marshal as aforesaid, and that no other person is the owner thereof. Wherefore he prays to defend accordingly.

HANS GUTTORMSEN.

Subscribed and sworn to before me this 18th day of September, A. D. 1886.
[SEAL.] ANDREW T. LEWIS,
*Clerk of the U. S. Dist. Court for the District of Alaska.*

W. CLARK & D. A. DINGLEY,
*Proctors for Claimant.*

On the same day was filed the following amended libel of information:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA. AUGUST SPECIAL TERM, 1886.

To the honorable LAFAYETTE DAWSON,
*Judge of said District Court:*

The amended libel of information of M. D. Ball, attorney for the United States for the district of Alaska, who prosecutes on behalf of said United States, and being present here in court in his own proper person, in the name and on behalf of the said United States, alleges and informs as follows, to wit:

That C. A. Abbey, an officer in the Revenue-Marine Service of the United States,

duly commissioned by the President of the United States, in command of the United States revenue-cutter *Corwin*, and on special duty in the waters of the district of Alaska heretofore, to wit, on the 1st day of August, 1886, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial district of Alaska, to wit, within the waters of that portion of Behring Sea belonging to the United States and said district, on waters navigable from the sea by vessels of ten or more tons burden, seized the schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney. The said property is more particularly described as follows, to wit:

1. Schooner *Thornton*, of Victoria, B. C., 4 boats with oars, sails, and gear; carpenter's and caulking tools and materials; 5 tons of coal, 10 yds. of canvas, clock, chronometer, nautical instruments, provisions, sails and running gear, ropes, twine, lamps, oil, casks, buckets, engine and gear, 20 sacks of salt, 403 fur-seal skins, 1 hair-seal skin, 3 pup-seal skins, 4 rifles, 6 shotguns, and arms and ammunition for same, and all other property found upon or appurtenant to said schooner.

That said C. A. Abbey was then and there duly commissioned and authorized by the proper department of the United States to make said seizure.

That all of said property was then and there seized as forfeited to the United States for the following causes:

That said vessel, her captain, officers, and crew were then and there found engaged in killing fur seals within the limits of Alaska Territory and within the waters thereof, in violation of section 1956 of the Revised Statutes of the United States.

That all the said property, after being seized as aforesaid, was brought into the port of Oonalaska in said Territory, and delivered into the keeping of Isaac Anderson, a deputy United States marshal of this district, with the exception of the said arms and ammunition, which latter were brought into the port of Sitka in said district and turned over to the United States marshal of this district, and all of said property is now within the judicial district of Alaska, United States of America.

And the said M. D. Ball, attorney as aforesaid, further informs and alleges:

That on the 1st day of August, 1886, Henry Norman and certain other persons whose names are to said United States attorney unknown, who were then and there engaged on board of the said schooner *Thornton* as seamen and seal hunters, did, under the direction and by the authority of Hans Guttormsen, then and there master of said schooner, engage in killing and did kill, in the territory and district of Alaska, and in the waters thereof, to wit, 20 fur seals, in violation of section 1956 of the Revised Statutes of the United States, in such cases made and provided.

That the said 403 fur-seal skins, 3 pup skins, 1 hair-seal skin, and other goods so seized on board of said schooner *Thornton* constituted the cargo of said schooner at the time of the killing of said fur seals, and at the time of said seizure.

And said attorney saith that all and singular the premises were and are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court, and that by reason thereof and by force of the statutes in such cases made and provided, the aforementioned schooner, being a vessel of over 20 tons burden, and her said tackel, apparel, boats, cargo, and furniture became and are forfeited to the use of the United States.

Wherefore the said attorney prays that the usual process and monition of this honorable court issue in this behalf against said schooner and all said hereinbefore described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause on the return day of said process why said forfeiture should not be decreed; and that after due proceedings are had, all of said property be adjudged decreed and condemned as forfeited to the use of the United States; and for such other relief as may be proper in the premises.

M. D. BALL,
*U. S. Dist. Attorney for the District of Alaska.*

Dated September 20th, 1886.

On the same day was filed the following demurrer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *J. D. Warren and schooner "Thornton." Demurrer.*

The demurrer of J. D. Warren, claimant of the property proceeded against in the above cause to the information filed herein.

1st. The said claimant by protestation, not confessing all or any of the matters in said amended information contained to be true, demurs thereto and says that the said matters, in manner and form as the same are in the information stated and set forth, are not sufficient in law for the United States to have and maintain their said action for the forfeiture of the property aforesaid.

2d. The said claimant by protestation denies that this court has jurisdiction to determine or try the question hereby put in issue.

3d. And that the said claimant is not bound in law to answer the same.

Wherefore claimant prays that said information may be dismissed with costs.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimant.*

Which demurrer was overruled by the court, and on the same day was filed the following answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *J. D. Warren and schooner "Thornton." Answer of claimant.*

The answer of J. D. Warren, owner and claimant of the said schooner *Thornton*, her tackle, apparel, cargo, and furniture, as the same are set forth in the information filed herein in behalf of the United States.

And now comes J. D. Warren, claimant as aforesaid, and for answer to the said information against the said schooner *Thornton*, her tackle, apparel, furniture, and cargo, as set forth in said information, says that the said schooner *Thornton*, her tackle, apparel, furniture, and cargo, as set forth in the information mentioned, did not nor did any part thereof become forfeited in manner and form as in said information in that behalf alleged, or at all.

Wherefore the said claimant prays that said information be dismissed, with costs to this claimant attached.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimant.*

On the 22nd of September, 1886, were filed the following exceptions to answer:

UNITED STATES DISTRICT COURT, DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*United States* vs. *The Schooner Thornton. No.* 50.

The said libellant hereby excepts to the sufficiency of the defendant's answer herein, on the following grounds:

1st. Said answer is not properly or at all verified as required by Rule 27 of the U. S. Admiralty rules.

2nd. Said answer is not full, explicit, or distinct to each or any allegation of the libel herein, as required by said rule.

3rd. Said answer does not deny or admit any of the allegations of fact in said libel, but merely denies a conclusion of law.

M. D. BALL & W. H. PAYSON,
*Proctors for Libellant.*

SEPTEMBER 21ST, 1886.

Which exceptions were sustained by the court and on the same day was filed the following amended answer:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *J. D. Warren and Schooner Thornton. Amended answer.*

To the honorable LAFAYETTE DAWSON,
*Judge of the United States District Court for the District of Alaska:*

Hans Guttormson, master of the schooner *Thornton*, intervening for the interest of and in behalf of J. D. Warren, owner and claimant of said schooner *Thornton*, her tackle, apparel, furniture, and cargo, for amended answer to the libel of information herein against said schooner, her tackle, apparel, furniture, and cargo, alleges as follows:

1st. That he denies each and every material allegation in said libel of information contained.

2d. Denies that the said schooner *Thornton*, her tackle, apparel, furniture, cargo, and the property appertaining thereto, as set forth and described in said libel of information, or any part thereof, became forfeited to the United States.

3d. Denies that said schooner, her captain, officers, and crew, or any one of them, were found engaged in killing fur seal within the limits of Alaska Territory, and within the waters thereof, in violation of section 1956 of the Revised Statutes of the United States, as set forth in said libel of information, or at all.

4th. Denies that they killed any number of fur seal or other fur-bearing animals within the waters of Alaska, or the Territory of Alaska, or in any part thereof.

5th. That all and singular the premises herein are true.

Wherefore said master prays that this honorable court will be pleased to pronounce against the libel herein, and that the same may be dismissed with costs to the claimants to be taxed.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimant.*

UNITED STATES, *District of Alaska, ss:*

Hans Guttormson, being first duly sworn, says he is master of the schooner *Thornton*, that he has heard read the foregoing answer and knows the contents thereof, and that the same is true of his own personal knowledge.

H. GUTTORMSEN.

Subscribed and sworn to before me this 22d day of September, A. D. 1886.

ANDREW T. LEWIS,
*Clerk of the U. S. Dist. Court for the District of Alaska.*

On the 4th day of October, 1886, the motion cited, page 5, was returned with the following indorsement:

SITKA, *District of Alaska, ss:*

Be it remembered that, in obedience to the annexed monition, I have attached the within described property and now hold the same in my possession subject to the order of this honorable court.

And I have given due notice to all persons claiming said property to be and appear before this district court on the 4th day of October, 1886, at 10 o'clock a. m., if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there to make their claims and allegations in that behalf.

And I have caused said notice to be published, and the same has been published in the Alaskan, a newspaper published at Sitka, in said district, on the 4th day of September, 1886, and in each issue of said newspaper subsequent thereto until 4th day of October, 1886.

BARTON ATKINS,
*Marshal Dist. of Alaska.*

SITKA, ALASKA, *October* 4, 1886.

On the same day was filed the following decree:

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA, UNITED STATES OF AMERICA.

*United States* vs. *The Schooner Thornton. No.* 50.

The marshal having returned on the monition issued to him in the above-entitled action that in obedience thereto he has attached the said schooner *Thornton*, her tackle, apparel, boats, cargo, and furniture, and has given due notice to all persons claiming the same to appear before this court on this 4th day of October, 1886, at 10 o'clock a. m., at the district of Alaska, United States of America, then and there to interpose their claims and make their allegations in that behalf; and Hans Guttormsen, the captain of said vessel, having heretofore filed a claim to all of said property on behalf of J. D. Warren, of Victoria, B. C., the owner thereof, and no other persons having appeared, and no claims or allegations having been made or filed herein by any other person or persons, and the usual proclamation having been made, and said cause having been heard upon the pleadings and proofs, M. D. Ball, esq., and W. H. Payson, esq., appearing as advocates for said libellant, and W. Clark as advocate for said claimant; and said cause having been submitted to the court for decision, and due deliberation being had in the premises, it is now ordered, sentenced, and decreed as follows:

1st. That all persons whatsoever other than said claimant be, and they are hereby, declared in contumacy and default.

2nd. That the said schooner *Thornton*, her tackle, apparel, boats, and furniture, and her cargo of 403 fur-seal skins, and all other property found upon and appurtenant to said schooner, be, and the same are hereby, condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of this court, the usual writ of venditioni exponas be issued to the marshal commanding him to sell all of the said property and bring the proceeds into this court to be distributed according to law. Costs to be taxed are awarded against said claimant.

LAFAYETTE DAWSON,
*District Judge.*

Dated October 4th, 1886.

Done in open court this 4th day of October, 1886, at Sitka, district of Alaska, United States of America.

——— ———,
*Clerk.*

On the same day was filed the following motion to set aside decree:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *J. D. Warren and Schooner "Thornton." Motion to set aside decree.*

Now come W. Clark and D. A. Dingley, proctors intervening for and in behalf of the claimants herein, and moves the court to set aside the decree rendered herein for the reason that the evidence produced on behalf of the United States is wholly insufficient upon which to base said decree.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimant.*

Which motion was overruled by the court, and on the same day was filed the following notice of appeal:

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA.

*United States* vs. *J. D. Warren and Schooner "Thornton." Notice of appeal.*

And now come W. Clark & D. A. Dingley, proctors for and in behalf of the claimant herein, and notifies this honorable court that they hereby appeal from the decree rendered herein to the circuit court having appellate jurisdiction over this district, and that said appeal is taken on questions of law and fact, and prays the court for an order on its clerk to prepare a complete transcript of the records herein, as the law requires.

W. CLARK & D. A. DINGLEY,
*Proctors for Claimant.*

On the 9th day of February, 1887, was entered the following order:

*In the matter of the United States* vs. *Schooner Onward, Case No.* 49; *Schooner Thornton, Case No.* 50; *Schooner Carolena, Case No.* 51; *Schooner San Diego, Case No.* 52; *Arms and Ammunition Schr. Sierra, No.* 57; *Arms and Ammunition Schr. San Diego, No.* 58.

In the above causes, upon motion of the attorney for the United States and argument of counsel for the United States and for the interveners in said causes, and consideration by the court, it is this day ordered that writs of venditioni exponas do issue from the clerk of said court to the marshal of said district, for the sale of the attached vessels, with their tackle, cargoes, and furniture of whatsoever description, and of the arms and ammunition attached in said causes, and as to said attached vessels that the sale of the same (except the schooner *San Diego*, which shall be sold at Sitka) shall be made at Port Townsend, in the district of Washington Territory, and as to the seal skins, part of the cargoes of said vessels attached, that sale of the same shall be made at San Francisco, in the district of California, and that sale of said schooner *San Diego* and all the other attached property be made at Sitka, in the district of Alaska. Thirty days' notice of such sale to be given at each of the places where the same are to be made, by posting such notice, or by publication in some newspaper published at such places respectively. And that said marshal do have the moneys arising from such sales, together with the writ commanding the same, at a district court of the United States for this, the said district of Alaska, to be held on the first Monday in September, 1887, and that he then pay the same to the clerk of said court.

CLERK'S OFFICE U. S. DIST. COURT, DISTRICT OF ALASKA,
*Sitka, March* 10, 1887.

I, Andrew T. Lewis, clerk of the said court, do certify that the foregoing transcript of the record in the case of the United States *vs.* the schooner *Thornton*, her tackle,

apparel, &c., on libel of information pending in said court, has been compared by me with the original, and that it is a correct transcript therefrom and of the whole of such original, except the full text of the exhibits referred to in the testimony therein, the purport of which only is stated, and that the purport of said exhibits is correctly stated, as the same appears of record at my office and in my custody.

Witness my hand and the seal of said court this 10th day of March, 1887.

[SEAL.] ANDREW T. LEWIS,
*Clerk.*

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No. 15.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *August* 11, 1887. (Received August 12.)

SIR: I have the honor to inform you that Her Majesty's Government have received a telegram from the commander-in-chief of Her Majesty's naval forces in the Pacific, dated Victoria, British Columbia, August 7, reporting the seizure by United States cruisers of three British Columbian sealing schooners in Behring's Sea, a long distance from Sitka, and that several other vessels were in sight being towed in.

In conveying this information to you, I am requested at the same time by the Marquis of Salisbury to state that, in view of the assurances given in your note of the 3d of February last, Her Majesty's Government had assumed that pending the conclusion of discussions between the two governments on general questions involved, no further seizures would be made by order of the United States Government.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 16.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, August* 13, 1887.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, received yesterday afternoon, informing me of a telegraphic communication from the commander-in-chief of Her Majesty's naval forces in the Pacific, dated at Victoria, British Columbia, August 7, reporting the seizure of three British Columbian sealing schooners "in Behring Sea, a long distance from Sitka," and that "several other vessels were in sight being towed in."

The reference to my note to you of the 3d of February last, which you make under the instruction of the Marquis of Salisbury, has caused me to examine the expressions contained therein, and I can discover no ground whatever for the assumption by Her Majesty's Government that it contained assurances "that pending the conclusion of discussions between the two Governments on general questions involved, no further seizures would be made by order of the United States Government."

Until your note of the 11th instant was received, I had no information of the seizure of the sealing vessels therein referred to, and have no knowledge whatever of the circumstances under which such seizures have been made.

I shall at once endeavor to supply myself with the information necessary to enable me to reply to you more fully.

The cases of seizure referred to in my note of February 3, 1887, had occurred during the previous August, and upon the basis of the information then obtained I wrote you as follows:

In this connection I take the occasion to inform you that, without conclusion at this time of any questions which may be found to be involved in these cases of seizure, orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

Having no reason to anticipate any other seizures, nothing was said in relation to the possibility of such an occurrence, nor do I find in our correspondence on the subject any grounds for such an understanding as you inform me had been assumed to exist by Her Britannic Majesty's Government.

A short time since, when you called upon me and personally obtained copies of the record of the judicial proceedings in the three cases of seizure in August last in Behring Sea, nothing was said in relation to other cases. Whether the circumstances attendant upon the cases which you now report to me are the same as those which induced the Executive to direct the releases referred to, remains hereafter to be ascertained, and this with as little delay as the circumstances will permit.

I have, etc., T. F. BAYARD.

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## No. 17.

### *The Marquis of Salisbury to Sir L. S. Sackville West.**

FOREIGN OFFICE, *September* 10, 1887.

SIR: By a dispatch of the 30th October last (No. 214) the late Earl of Iddesleigh instructed you to call the attention of the United States Secretary of State to the circumstances of the seizure in Behring's Sea, by the American cruiser *Corwin*, of some British Canadian vessels; and his lordship directed you to state to Mr. Secretary Bayard that Her Majesty's Government felt sure that if the proceedings which were reported to have taken place in the United States district court were correctly described the United States Government would admit their illegality, and would cause reasonable reparation to be made to the British subjects for the wrongs to which they had been subjected and for the losses which they had sustained.

By a previous dispatch of the 9th September, you had been desired to ask to be furnished with any particulars which the United States Government might possess relative to the seizures in question; and on the 10th October you were instructed to enter a protest on behalf of Her Majesty's Government, and reserve for consideration hereafter all rights to compensation.

Nearly four months having elapsed without any definite information being furnished by the United States Government as to the grounds of the seizures, my predecessor instructed you, on the 8th of June [January?] last, to express to Mr. Bayard the concern of Her Majesty's Government at the delay, and to urge the immediate attention of the United States Government to the action of the American authorities in their treatment of these vessels and of their masters and crews.

On the 3d February Mr. Bayard informed you that the record of the

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*Left at the Department of State by Sir L. S. Sackville West, Sept. 23, 1887.

judicial proceedings which he had called for was shortly expected to reach Washington, and that, without conclusion at that time of any questions which might be found to be involved in these cases of seizures, orders had been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to, and the release of all persons under arrest in connection therewith.

On the 4th of April, under instructions from me, you inquired of Mr. Bayard, in view of the approaching fishing season in Behring's Sea, whether the owners of British vessels might rely when not near land on being unmolested by the cruisers of the United States, and you again asked when the record of the judicial proceedings might be expected.

Mr. Bayard informed you, in reply (12th April), that the papers referred to had reached him and were being examined; that there had been unavoidable delay in framing appropriate regulations and issuing orders to the United States vessels to police the Alaskan waters; that the Revised Statutes relating to Alaska, sections 1956 and 1971, contained the laws of the United States in relation to the matter; and that the regulations were being considered, and he would inform you at the earliest day possible what had been decided, so that British and other vessels might govern themselves accordingly.

In view of the statements made by Mr. Bayard in his note of the 3d February, to which I have referred above, Her Majesty's Government assumed that, pending a conclusion ot the discussion between the two Governments on the general question involved, no further similar seizures of British vessels would be made by order of the United States Government. They learn, however, from the contents of Mr. Bayard's note of the 13th ultimo, inclosed in your dispatch, No. 245, of the 15th ultimo, that such was not the meaning which he intended should be attached to his communication of the 3d February; and they deeply regret to find a proof of their misinterpretation of the intentions of the United States Government from an announcement recently received from the commander-in-chief of Her Majesty's naval forces in the Pacific, that several more British vessels engaged in seal hunting in Behring's Sea have been seized when a long distance from land by an American revenue vessel.

Her Majesty's Government have carefully considered the transcript record of the judicial proceedings in the United States district court in the several cases of the schooners *Carolena*, *Onward*, and *Thornton*, which were communicated to you in July, and were transmitted to me in your dispatch, No. 196, of the 12th of that month, and they can not find in them any justification for the condemnation of those vessels.

The libels of information allege that they were seized for killing fur seal within the limits of Alaska Territory, and in the waters thereof, in violation of section 1956 of the Revised Statutes of the United States; and the United States Naval Commander Abbey certainly affirmed that the vessels were seized within the waters of Alaska and the Territory of Alaska, but according to his own evidence, they were seized 75, 115, and 70 miles, respectively, south-southwest of St. George's Island.

It is not disputed, therefore, that the seizures in question were effected at a distance from land far in excess of the limit of maritime jurisdiction, which any nation can claim by international law, and it is hardly necessary to add that such limit can not be enlarged by any municipal law.

The claim thus set up appears to be founded on the exceptional title said to have been conveyed to the United States by Russia at the time of the cession of the Alaska Territory.

The pretension which the Russian Government at one time put forward to exclusive jurisdiction over the whole of Behring Sea was, however, never admitted either by this country or the United States of America. On the contrary, it was strenuously resisted, as I shall presently show, and the American Government can hardly claim to have received from Russia rights which they declared to be inadmissible when asserted by the Russian Government. Nor does it appear from the text of the treaty of 1867 that Russia either intended or purported to make any such grant, for by Article I of that instrument Russia agreed to cede to the United States all the territory and dominion then possessed by Russia "on the continent of America and in the adjacent islands" within certain geographical limits described, and no mention was made of any exclusive right over the waters of Behring Sea.

Moreover, whatever rights as regards their respective subjects and citizens may be reciprocally conferred on the Russian and American Governments by treaty stipulation, the subjects of Her Majesty can not be thereby affected, except by special arrangement with this country.

With regard to the exclusive claims advanced in times past by Russia, I transmit to you documents communicated to the United States Congress in 1822, which show the view taken by the American Government of these pretensions.

In 1821 the Emperor of Russia had issued an edict establishing "rules for the limits of navigation and order of communication along the coast of the eastern Siberia, the northwestern coast of America, and the Aleutian, Kurile, and other islands."

The first section of the edict said:

> The pursuit of commerce, whaling, and fishing, and of all other industry on all islands, ports, and gulfs, including the whole of the northwest coast of America, beginning from Behring Straits to the 51st degree of northern latitude; also from the Aleutian Islands to the eastern coast of Siberia, as well as along the Kurile Islands from Behring Straits to the south cape of the Island of Urup, viz, to the 45° 50′ of northern latitude, is exclusively granted to Russian subjects.

And section 2 stated:

> It is, therefore, prohibited to all foreign vessels, not only to land on the coast and islands belonging to Russia, as stated above, but also to approach them within less than 100 Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo.

A copy of these regulations was officially communicated to the American Secretary of State by the Russian minister at Washington on the 11th February, 1822, whereupon Mr. Quincy Adams, on the 25th of that month, after informing him that the President of the United States had seen with surprise the assertion of a territorial claim on the part of Russia extending to the fifty-first degree of north latitude on the American continent, and a regulation interdicting to all commercial vessels other than Russian upon the penalty of seizure and confiscation the approach upon the high seas within 100 Italian miles of the shores to which that claim was made to apply, went on to say that it was expected, before any act which should define the boundary between the territories of the United States and Russia, that the same would have been arranged by treaty between the parties, and that "to exclude the vessels of American citizens from the shore beyond the ordinary distance to which territorial jurisdiction extended has excited still greater surprise;" and Mr. Adams asked whether the Russian minister was authorized to give explanations of the "ground of right upon principles generally recognized by the laws and usages of nations which can warrant the claims and regulations."

The Russian minister in his reply, dated the 28th February, after explaining how Russia had acquired her possessions in North America, said:

I ought, in the last place, to request you to consider, sir, that the Russian possessions in the Pacific Ocean extend on the northwest coast of America from Behring's Strait to the 51st degree of north latitude, and on the opposite side of Asia and the islands adjacent from the same strait to the 45th degree. The extent of sea of which these possessions form the limits comprehends all the conditions which are ordinarily attached to shut seas ('*mers fermées*'), and the Russian Government might consequently judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners; but it preferred only asserting its essential rights without taking advantage of localities.

On the 30th March Mr. Adams replied to the explanations given by the Russian minister. He stated that, with respect to the pretension advanced in regard to territory, it must be considered not only with reference to the question of territorial rights, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within 100 Italian miles of the coasts. That from the period of the existence of the United States as an independent nation their vessels had freely navigated these seas, the right to navigate them being a part of that independence; and with regard to the suggestion that "the Russian Government might have justified the exercise of sovereignty over the Pacific Ocean as a close sea, 'because it claims territory both on its American and Asiatic shores,' it may suffice to say that the distance from shore to shore on this sea, in latitude 51° north, is not less than 90° of longitude or 4,000 miles." Mr. Adams concluded as follows:

The President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights.

The convention between the United States of America and Russia of the 17th April, 1824, put an end to any further pretension on the part of Russia to restrict navigation or fishing in Behring Sea so far as American citizens were concerned; for by Article I it was agreed that in any part of the Great Ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contracting powers shall neither be disturbed nor restrained, either in navigation or fishing, saving certain restrictions which are not material to the present issue; and a similar stipulation in the convention between this country and Russia in the following year (15th May, 1825), put an end as regarded British subjects to the pretensions of Russia to which I have referred, and which had been entirely repudiated by Her Majesty's Government in correspondence with the Russian Government in 1821 and 1822, which for your more particular information I inclose herein.

Her Majesty's Government feel sure that, in view of the considerations which I have set forth in this dispatch, which you will communicate to Mr. Bayard, the Government of the United States will admit that the seizure and condemnation of these British vessels and the imprisonment of their masters and crews were not warranted by the circumstances, and that they will be ready to afford reasonable compensation to those who have suffered in consequence, and issue immediate instructions to their naval officers which will prevent a recurrence of these regrettable incidents.

I am, etc.,

SALISBURY.

No. 18.

*Sir L. S. Sackville West to Mr. Bayard.*

BRITISH LEGATION,
*Washington, September* 29, 1887. (Received September 29.)

SIR: I have the honor to inform you that Her Majesty's Government have been officially informed that the British vessels, mentioned in your note of the 3d of February last, have not been released, and that I am instructed to inquire the reason for the delay in complying with the orders sent to this effect, as stated in your above-mentioned note.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 19.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *October* 4, 1887. (Received October 5.)

SIR: I have the honor to inclose herewith a letter addressed to the United States district attorney and United States marshal at Sitka, which has been forwarded to me by the governor-general of Canada for transmission to you.

Lord Lansdowne states that this letter came into the possession of the Canadian government through the captain of the sealing schooner *Alfred Adams*, to whom it was given by the first lieutenant of the United States revenue-cutter *Richard Rush*, after boarding the said schooner and confiscating the skins and arms contained in her.

His excellency adds, by way of explanation, that the envelope of the letter which is described by the minister of marine in the report transmitting it as sealed and unopened appears to have been worn through at one end in transmission by post.

I have, etc.,

L. S. SACKVILLE WEST.

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[Inclosure.]

*Captain Shepard to the United States district attorney and United States marshal of Alaska.*

U. S. REVENUE STEAMER RUSH,
*Behring Sea, August* 6, 1887.

GENTLEMEN: I have the honor to inform you that I have this day seized the British schooner *Alfred Adams*, of Victoria, B. C., W. H. Dyer, master, and Hugh McKay, of Victoria, B. C., managing owner, for violation of law, section 1956, Revised Statutes.

I have taken the seal skins (which will be delivered to the United States deputy marshal at Oonalaska) and his arms on board the United States revenue steamer *Rush*, and ordered the captain to proceed with his vessel to Sitka, Alaska, and on his arrival to set his crew at liberty, and to report in person to you, and I have to request that you will take charge of this vessel and her officers until I can appear in the United States district court against them, about September 1 next.

I am, etc.,

L. G. SHEPARD,
*Captain United States Revenue Marine.*

No. 20.

*Mr. Bayard to Mr. Garland.*

DEPARTMENT OF STATE,
*Washington, October* 7, 1887.

SIR: I have the honor to transmit to you herewith, for your information, a copy of a note to this Department from the British minister at this capital, inclosing a letter, addressed to the United States district attorney and the United States marshal at Sitka; and stating the manner in which it reached the minister's hands.

I have, etc.,

T. F. BAYARD.

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No. 21.

*Mr. Bayard to Mr. Garland.*

DEPARTMENT OF STATE,
*Washington, October* 8, 1887.

SIR: With reference to the copy of your telegram of the 28th of January, which accompanied your letter of the 21st of May, 1887, to this Department, relative to the order issued by you for the release of the British sealing vessels *Carolena*, *Onward*, and *Thornton*, I have now the honor to inclose herewith, for your information, a copy of a note from Sir Lionel West, Her Britannic Majesty's minister at this capital, in which it is alleged that the vessels in question have not been released.

In view of the fact the minister was informed, on the 3d of February last, that the order for the discharge of the vessels referred to had been issued, I shall feel much obliged if you will kindly cause this Department to be furnished with such information as will enable me to reply fully to Sir Lionel West's note.

I have, etc.,

T. F. BAYARD.

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No. 22.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, October* 11, 1887.

SIR: I have the honor to acknowledge your note of the 29th ultimo, stating that Her Majesty's Government had been officially informed that the British vessels referred to in my note to you of the 3d of February last had not been released, and asking the reason for the delay in complying with the orders of the Executive in that regard.

Upon receiving your note I at once wrote to my colleague, the Attorney-General, as the head of the Department of Justice, in order that I might be enabled to reply satisfactorily to your inquiry.

I am still without answer from him, which, when received, shall be promptly communicated to you.

In the meantime, in acknowledging your note I take occasion to state my impression that if the three vessels seized and ordered to be released have not been repossessed by their owners, it is not because of any hindrance on the part of any official of this Government, or failure to obey the order for release, but probably because of the remoteness of the locality (Sitka) where they were taken after arrest for adjudication, and the proceedings having been *in rem*, the owners have not seen proper to proceed to Alaska and repossess themselves of the property in question.

Accept, sir, etc.,

T. F. BAYARD.

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No. 23.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *October* 12, 1887. (Received October 13.)

SIR: In connection with the representation which I was instructed to make to you respecting the seizure of the British schooners *Onward*, *Carolena*, and *Thornton*, by the United States cruiser *Corwin*, in Behring's Sea, I have the honor to inform you that I am now further instructed to make similar representations in the cases of the British Columbian vessels *Grace*, *Dolphin*, and *W. P. Sayward*, seized lately by the United States revenue-cutter *Richard Rush*, and at the same time, as in the cases of the *Onward*, *Carolina*, and *Thornton*, to reserve all rights to compensation on behalf of the owners and crews.

I am also instructed to point out to you that according to the deposition of the mate of the *W. P. Sayward*, a copy of which is inclosed, no seals had been taken by her crew in Behring's Sea, as is alleged in the libels of information filed on behalf of the United States district attorney in the district court of Alaska.

I have, etc.,

L. S. SACKVILLE WEST.

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[Inclosure.]

*Deposition of Andrew Lang, mate of the schooner W. P. Sayward.*

DECLARATION.

I, Andrew Lang, of Victoria, mate of the British schooner *W. P. Sayward*, do solemnly and sincerely declare—

That I left Victoria, British Columbia, in the schooner *W. P. Sayward* on the 16th day of May, 1887, bound on a sealing voyage, with a crew of seven men and sixteen Indian hunters, with eight canoes.

We commenced sealing off Cape Scott, on the north of Vancouver Island, and killed 479 fur seals in the Pacific Ocean, and entered the Bering's Sea on July 2, 1887, passing between Umnak Island and the Island of the Four Mountains. The weather was very thick and foggy, and we did no sealing in Bering's Sea in consequence.

On the 9th July we were captured by the United States steamer *Richard Rush*, being then from 30 to 40 miles off the nearest land. We were taken in tow to Ounalaska, where we arrived on the 10th of July, and they laid us alongside the steamer *St. Paul*, belonging to the Alaska Commercial Company. They removed the seal skins and took them ashore to the wharf and put them in the company's warehouse, and they resalted the skins with salt taken from our vessel. They put an officer from the *Rush* on board and towed us out to sea and told us to go to Sitka.

We arrived there on the 22d July, and on the next day an investigation was held before Judge Dawson, who bound us over to appear on the 22d of August for trial.

The vessel was left in charge of the United States officers, and we were only allowed to remove our clothing. The Indians were left to find their way home as they could. They were about 700 miles from their villages.

I further say that when we were taken I spoke to the captain of the *Rush*, and told him we had not taken a seal in Behring's Sea. He replied, "I am sorry for you; I have to obey orders, and take everything I come across in Behring's Sea."

And I make this solemn declaration by virtue of the act passed in the thirty-seventh year of Her Majesty's reign, entitled "An act for the suppression of voluntary and extra-judicial oaths."

A. LANG.

Taken and declared before me at Victoria this 8th day of August, 1887.

M. W. TYRWHITT DRAKE,
*Notary Public.*

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No. 24.

*Mr. Garland to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, October* 12, 1887. (Received October 13.)

SIR: In reply to your letter of the 3d instant, inclosing copy of letter from Hon. L. S. Sackville West, with reference to the vessels *Carolena*, *Onward*, and *Thornton*, yesterday I received a letter from the marshal, Barton Atkins, stating in substance that my telegram of the 26th of January had been thought to be not genuine, and had not been acted upon. To-day I sent him the following telegram:

As the seal skins at San Francisco are perishable, have sale made. Thirty days' leave is granted for that purpose. Let the vessels *Carolena*, *Onward*, and *Thornton* be released, as ordered in mine of the 26th of January ultimo.

I trust this will be obeyed, and the vessels released as directed.

Yours, etc.,

A. H. GARLAND,
*Attorney-General.*

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No. 25.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, October* 13, 1887.

SIR: Continuing my reply to your note of the 29th ultimo, inquiring the reason for the delay in complying with the order issued in January last for the release of British vessels seized last year in Behring Sea, I beg leave to inform you that I have this day received a communication from my colleague, the Attorney-General, informing me that his telegram to the United States marshal at Sitka, of January 26 last, ordering the release of the British schooners *Onward*, *Carolena*, and *Thornton*, owing to some misconception and mistake on the part of the official to whom it had been addressed, had not been acted upon.

A renewed order has gone forward for their release, as has been distinctly directed last January, and which I had no reason to doubt had been promptly obeyed.

In my note to you of the 11th instant, I stated it to be my impression that no hindrance to their repossession by the owners of the vessels named existed. This impression it now appears was not well founded; and as my object is to give you the fullest information within

my power in relation to all transactions touched in our correspondence, I hasten to communicate the latest report made to me from the Department of Justice.

I take leave also to express my regret that any misconception of the intentions and orders of the President should have delayed their prompt execution.

I have, etc.,

T. F. BAYARD.

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No. 26.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, October* 13, 1887.

SIR: I have the honor to acknowledge your note of yesterday, in relation to the cases of seizure of the British schooners *Onward*, *Carolena*, and *Thornton*, in Behring Sea, by United States revenue vessels, in August, 1886, and also your instructions to include by similar representations the cases of the British Columbian vessels *Grace*, *Dolphin*, and *W. P. Sayward*, seized by the United States revenue authorities in Behring Sea, with notification that Her Britannic Majesty's Government reserves all right to compensation on behalf of the owners and crews of the above-mentioned vessels. The affidavit of the mate of the *W. P. Sayward* has been read, and the facts therein stated will be at once investigated.

I have, etc.,

T. F. BAYARD.

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No. 27.

*Mr. Bayard to Mr. Graland.*

[Extract.]

DEPARTMENT OF STATE,
*Washington, October* 13, 1887.

SIR: I beg to acknowledge your communication of yesterday's date, by which I am surprised to learn of the failure of the United States marshal at Sitka to obey the instruction of the President of January 26 last, for the immediate release of the British sealers *Onward*, *Carolena*, and *Thornton*. I have felt it to be my duty at once to communicate this information to the British minister at this capital.

I have, etc..

T. F. BAYARD.

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No. 28.

*Mr. Garland to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, October* 15, 1887. (Received October 17.)

SIR: I have the honor to say, in reply to your letter of the 13th instant, in relation to the release of the vessels *Carolena*, *Onward*, and *Thornton*, that before your request was received I had repeated the in-

structions by telegraph to the marshal for Alaska, and since its receipt have, as you suggested, supplemented the telegram by a letter, both of these communications directing that the instructions of January last be carried out.

Very respectfully,

A. H. GARLAND.

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No. 29.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *October* 19, 1887. (Received October 21.)

SIR: I have the honor to inform you that I am instructed by the Marquis of Salisbury, Her Majesty's principal secretary of state for foreign affairs, to protest against the seizure of the Canadian vessel *Alfred Adams*, in Behring Seas, and against the continuation of similar proceedings by the United States authorities on the high seas.

I have, etc.

L. S. SACKVILLE WEST.

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No. 30.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, October* 22, 1887.

SIR: I had the honor of receiving last evening your note of the 19th instant, conveying the instruction to you by the Marquis of Salisbury that you should protest against the seizure of the Canadian vessel *Alfred Adams* in Behring Sea, and against the continuance of similar proceedings by the United States authorities on the high seas; and I have, etc.,

T. F. BAYARD.

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No. 31.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *October* 26, 1887. (Received October 27.)

SIR: With reference to my note of the 19th instant, protesting against the seizure of the British schooner *Alfred Adams*, I have the honor to transmit to you herewith copy of the report of the Canadian minister of marine and fisheries and other papers relating thereto.

I have, etc.,

L. S. SACKVILLE WEST.

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[Inclosure 1.]

REPORT OF GEORGE E. FOSTER, CANADIAN MINISTER OF MARINE AND FISHERIES.

DEPARTMENT OF FISHERIES—CANADA,
*Ottawa, September* 15, 1887.

With reference to previous correspondence concerning the seizure and detention of Canadian sealing vessels by the United States authorities in Behring Sea, the minister

of marine and fisheries begs to submit for the consideration of his excellency the governor-general in council, the following papers:

(*a*) A letter from Collector Hamley, of Victoria, B. C., dated September 1, 1887, inclosing certain papers in reference to the seizure of the Canadian sealing schooner *Alfred Adams* in Behring Sea.

(*b*) The declaration of William Henry Dyer, of Victoria, British Columbia, master of the Canadian schooner *Alfred Adams*;

(*c*) A certificate of seizure of the *Alfred Adams*, signed by L. G. Shepard, captain of the United States revenue steamer *Rush*.

(*d*) A sealed and unopened letter directed to the United States district attorney and United States marshal, Sitka, Alaska.

(*e*) A letter from Collector Hamley, of Victoria, British Columbia, dated July 26, relating to the detention of the Canadian schooners *Onward*, *Carolena*, and *Thornton*, seized in August, 1886, by the United States cutter *Corwin* in Behring Sea.

(*f*) Copy of a telegram and order purporting to be from the United States Attorney-General and Judge Dawson, respectively, relating to the release of the above-named vessels, and

(*g*) A letter dated September 3, 1887, from the law firm of Drake, Jackson & Helmcken, of Victoria, containing additional information relating to the same.

From the above-mentioned papers it appears that on the 6th August, 1887, the Canadian schooner *Alfred Adams*, whilst engaged in catching seals in the open sea more than 50 miles distant from the nearest land, was forcibly seized by an armed vessel of the United States, her ship's papers taken, her cargo of seal skins, 1,386 in number, together with all her arms, ammunition, and fishing implements transferred to the United States cutter, and her captain ordered to proceed, with sealed orders, to Sitka, and to deliver himself, his vessel and men, into the hand of the United States marshal at that place.

This treatment of the *Alfred Adams* whilst peaceably pursuing her lawful calling on the high seas is but a repetition of the unjustifiable seizures of Canadian vessels made by the United States authorities in Behring Sea, and which have been dealt with at length in previous reports to council.

The minister, therefore, does not consider it necessary in this instance to traverse the ground already so fully covered, and recommends that a copy of this report, with the papers attached, be forwarded to Her Majesty's Government for their earnest and immediate consideration, and that a copy thereof be sent to the British minister at Washington, together with the sealed letter given by Captain Shepard to the master of the *Adams*, with the request that it be forwarded to Mr. Secretary Bayard.

With reference to the attached papers E, F, and G, the minister observes that from the first (E) it appears that inquiries made by the collector of customs at Victoria, British Columbia, in July last, resulted in his obtaining the information that Judge Dawson had up to that date received no orders for the release of the Canadian sealing vessels seized in 1886, that the vessels had not been sold, and remained still under seizure, and that Judge Dawson, when questioned as to the report that a telegram had been sent to him by the Attorney-General of the United States ordering the release of the vessels, had replied that he had heard of this report before, but that nothing of the kind had reached either himself or the United States marshal at Sitka. The paper marked F purports to be a copy of a telegram dated January 26, 1887, from the United States Attorney-General Garland to Judge Dawson, ordering him to release the vessels seized in August preceding, and of an order founded thereon from Judge Dawson to the United States marshal at Sitka bearing date February 19, 1887, directing him to "release the *Carolena*, *Onward*, *Thornton*, and *San Diego*, together with all their tackle, apparel, skins, guns, ammunition, small boats, and everything pertaining to said vessels." The third paper, marked G, is a copy of a letter from the law firm of Drake, Jackson & Helmcken, of Victoria, British Columbia, to the minister of justice, informing him that they are advised that a telegram was received by Judge Dawson from the United States Attorney-General, ordering the release of the vessels above referred to; that Judge Dawson did issue an order accordingly, but that he afterwards rescinded the order on the assumption that the telegram was a forgery, and that since "no official letters of any sort, either confirming the telegram or respecting the affair, has been received at Sitka."

The minister observes that if the information conveyed in the above-mentioned papers is correct, of which there appears no reasonable doubt, it reveals a state of affairs by no means satisfactory.

On the 3d of February, 1887, Mr. Secretary Bayard informed the British minister at Washington that "orders have been issued by the President's direction for the discontinuance of all pending proceedings, the discharge of the vessels referred to and the release of all persons under arrest in connection therewith." A telegram in accordance with Mr. Bayard's communication appears to have been sent to Alaska, and an order based thereon to have been issued by the district judge, but to have been afterwards rescinded, and no further action has been taken up to date of latest

information. Meanwhile the vessels remain under seizure, the seal skins are forfeited, and the property of Canadian citizens forcibly withheld from them under circumstances which involve very great loss and damage.

The minister further observes that with a view of guiding the action of Canadian citizens interested in sealing in the northern seas, repeated attempts were made previous to the commencement of the present season to obtain an official expression from the United States Government of the policy they proposed to pursue in their treatment of foreign vessels sealing in Behring Sea, but that these efforts proved altogether unavailing. From Mr. Bayard's communication of February 3, 1887, above referred to, the fair inference, however, was to be drawn that until the question in dispute between the two Governments as to the legality of the previous seizures had been finally disposed of, no further seizures would be made. And there is no doubt that on the strength of this communication, and in the absence of any explicit statement of policy to the contrary, Canadian citizens did, in the beginning of the present season, embark upon their customary sealing expeditions to Behring Sea, under the reasonable impression that they would not be interfered with by the United States authorities so long as they conducted their operations in the open sea; only, however, to find their vessels seized, their property confiscated, and their ventures completely ruined.

It is respectfully submitted that this condition of affairs is in the highest degree detrimental to the interests of Canada, and should not be permitted to continue. For nearly two years Canadian vessels have been exposed to arbitrary seizure and confiscation in the pursuit of a lawful occupation upon the high seas, and Canadian citizens subjected to imprisonment and serious financial loss, while an important and remunerative Canadian industry has been threatened with absolute ruin. This course of action has been pursued by United States officers in opposition to the contention in the past of their Government in regard to the waters in which these seizures have taken place, in violation of the plainest dictates of international law and in the face of repeated and vigorous protests of both the Canadian and British Governments.

The minister advises that Her Majesty's Government be again asked to give its serious and immediate attention to the repeated remonstrances of the Canadian government against the unwarrantable action of the United States in respect to Canadian vessels in Behring Sea, with a view to obtain a speedy recognition of its just rights and full reparation for the losses sustained by its citizens.

The whole respectfully submitted.

GEO. E. FOSTER,
*Minister of Marine and Fisheries.*

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[Inclosure 2.]

*Mr. Hamley to Mr. Foster.*

CUSTOM-HOUSE,
*Victoria, July 26, 1887.*

DEAR SIR: Captain Carrol, master of the American steamer *Olympian*, has been taking parties of excursionists to Sitka and I asked him to see the judge, Mr. Dawson, and find out something we could trust respecting the seized vessels. Dawson told him he had received no orders whatever for the release of the vessels—they have not been sold—and remain as they were, under seizure. Captain Carrol told Dawson of the telegram dated last January, purporting to have been sent by Mr. Garland, Attorney-General at Washington, in the President's name, ordering the vessels to be released. Dawson said he had heard of it before and that it must have been, as he termed it, a "put up thing," as nothing of the kind had reached either himself or the United States marshal at Sitka.

The serious part is that our people, trusting to the story of the order for release, have sent thirteen vessels again this year to the sealing grounds. One has been seized already and if the others fall in the way of the revenue cutters they will probably be seized also. I may perhaps learn something more from the admiral when he returns from Alaska, and if so I will write to you again.

Yours, very truly,

W. HAMLEY.

[Inclosure 3.—Copy of telegram.]

WASHINGTON, D. C., *January* 26, 1887.

Judge LAFAYETTE DAWSON and
M. D. BALL,
*United States district attorney, Sitka, Alaska:*

I am directed by the President to instruct you to discontinue any further proceedings in the matter of the seizure of the British vessels *Carolena*, *Onward*, and *Thornton*, and discharge all vessels now held under such seizure and release all persons that may be under arrest in connection therewith.

A. H. GARLAND,
*Attorney-General.*

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[Inclosure 4.—Copy of order.]

BARTON ATKINS,
*United States marshal for the district of Alaska:*

You are hereby directed to release the vessels *Carolena*, *Onward*, *Thornton*, and *San Diego*, which were seized in Behring Sea for violation of section 1956, United States Statutes, together with their tackle, apparel, skins, guns, ammunition, small boats, and everything pertaining to said vessels, this 19th day of February, 1887.

LAFAYETTE DAWSON,
*District Judge, District of Alaska.*

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[Inclosure 5.]

*Mr. Hamley to Mr. Foster.*

CUSTOM-HOUSE,
*Victoria, September* 1, 1887.

SIR: On the 7th of August the master of the United States revenue cutter *Rush*, seized in Behring Sea, 60 miles from any land, the Canadian schooner *Alfred Adams*. Her register, clearance, guns, and ammunition, and the seal-skins she had taken, 1,386, were all taken from her and the vessel herself ordered to Sitka. No one from the revenue-cutter was put on board by Captain Shepard, and the master of the *Alfred Adams*, instead of going as he was ordered to Sitka, returned to Victoria, arriving here August 31. I forwarded the master's deposition before a notary public and what Captain Shepard is pleased to term a certificate of the schooners' seizure by himself. Mr. Drake, a solicitor, is at Sitka waiting for the cases to be heard in court. The trial was delayed for the arrival of the *Rush*, and she was expected about the beginning of this month. Mr. Drake will no doubt report to the minister of justice.

I have, etc.,

W. HAMLEY.

I also inclose a sealed letter, addressed by Captain Shepard to the district attorney and United States marshal at Sitka, which the master of the *Alfred Adams* brought down with him, and which you can deal with in any way you think fit.

W. HAMLEY.

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[Inclosure 6.]

CERTIFICATE OF SEIZURE OF THE ALFRED ADAMS

U. S. REVENUE STEAMER RUSH,
*Behring Sea, August* 6, 1887.

*To whom it may concern:*

This will certify that I have this day seized the British schooner *Alfred Adams*, of Victoria, B. C., Capt. W. H. Dyer, master, for violation of law, and have taken charge of his ship's papers, viz, register, shipping articles, clearance, bill of health, and log-book; also her arms and seal-skins.

Very respectfully,

L. G. SHEPARD,
*Captain, United States Revenue Marine.*

[Inclosure 7.]

*In the matter of the seizure of the sealing schooner "Alfred Adams," by the United States revenue-cutter Richard Rush.*

I, William Henry Dyer, of Victoria, B. C., master mariner, do solemnly and sincerely declare that—

(1) I am the master of the schooner *Alfred Adams*, of the port of Victoria, British Columbia, engaged in the business of catching seals. On the 6th of August, 1887, while on board the said schooner and in command of the same, being in latitude 54° 48′ north, and longitude 167° 49′ west, the United States revenue-cutter *Richard Rush* steamed alongside, lowered a boat commanded by the first lieutenant and boat's crew. The said lieutenant came on board the said *Alfred Adams* and ordered me to take the ship's register, log-book, articles, and all others of the ship's papers on board the *Richard Rush*. In obedience to his command, I took all said papers and accompanied the said lieutenant on board the *Rush*. When I arrived on board the *Rush* the captain of the *Rush* asked me what was my business in the Behring Sea. I replied, taking seals. He inquired how many skins I had; I replied, 1,386. He then said he would seize the ship, take the skins, arms, ammunition and spears. I stated I did not think the ship was liable to seizure, as we had never taken a seal within 60 miles of Oonalaska nor nearer St. Paul's than 60 miles south of it, and that we had never been notified that the waters were prohibited unless landing and taking them from the island of St. Paul. He stated he must obey the orders of his Government, and that our Government and his must settle the matter, and ordered me to proceed on board the said schooner and deliver up my arms, ammunition, and skins, and spears. He sent two boats belonging to the *Rush*, in charge of the first and second lieutenants of the *Rush*, respectively, and manned with sailors from the *Rush*, who came on board the said schooner. (I returned in company with the first lieutenant.)

They took from the said schooner 1,386 skins, 4 kegs powder (3 triple F and 1 blasting powder), 500 shells, 3 cases caps and primers, 9 breech-loading double-barreled shot-guns, 1 Winchester rifle, all in good order, and 12 Indian spears, and he then gave me a sealed letter addressed to the United States marshal and United States district attorney at Sitka. He also gave me an acknowledgment of the goods taken, and also gave me a certificate that the said schooner was under seizure, and after being alongside for about three and a half hours I received orders in writing to proceed to Sitka and report to the United States district attorney and marshal. We then parted company. My crew consisted of myself, mate, two seamen, one Chinese cook, and twenty-one Indians. Previous to the said seizure we had spoken the schooner *Kate*, of Victoria, and had been informed by the mate of that vessel that the crews (and particularly the Indians) taken to Sitka on schooners previously seized had been very badly treated. The Indians became very mutinous on learning that we were to proceed to Sitka and report to the United States authorities and declared they would not go to Sitka, and to avoid trouble I came to Victoria instead of going to Sitka. I arrived in Victoria on the 31st of August, 1887, at about 7 p. m.

And I make this solemn declaration conscientiously, believing the same to be true, and by virtue of the oaths ordinance, 1869.

W. H. DYER.

Declared before me this 1st day of September, A. D. 1887, at Victoria, British Columbia.

H. DALLAS HELMCKEN,
*A Notary Public in and for the Province of British Columbia.*

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[Inclosure 8.]

*Messrs. Drake, Jackson, and Helmcken to Mr. Thompson.*

VICTORIA, B. C., *September* 3, 1887.

SIR: We have the honor to inform you that we are in receipt of letter from our Mr. Drake, written from Sitka, under date August 25, in which he states that a telegram was received at Sitka, relative to the schooners seized last year, from the United States Attorney-General Garland directing their release and discharge of the men. The judge gave an order accordingly, which was afterwards rescinded on the assumption that the telegram was a forgery. No official letter of any sort, either confirming the telegram or respecting the affair, has been received at Sitka. The schooners now seized and at Sitka are the *Anna Beck*, *W. P. Sayward*, *Dolphin*, and *Grace*. The *Alfred Adams* was also seized. The trial of the present men, Mr. Drake states, would not take place until after the arrival of the revenue-cutter *Rush*; also that, judging from

the past and the views held by the court, the result would most probably be the same, and urges that immediate steps should be taken to prevent the imprisonment of the masters, and that he would obtain declarations from the masters duly certified, and enter a protest at the trial. The *Rush* was not expected at Sitka until yesterday.

Regarding the seizure of the *Alfred Adams*, we have to state that that schooner has arrived here safely. The declarations of her captain (Captain Dyer) and his men have been duly taken, which her owners, Messrs. Guttman and Frank, of this city, yesterday handed to Hon. Mr. Stanley, collector of customs, together with a sealed letter, which the commander of the *Rush* handed to Captain Dyer to be delivered to the district attorney at Sitka. These papers, no doubt, Mr. Stanley has already forwarded to the proper department.

We have since forwarded a copy of this information to the Right Honorable Sir John A. Macdonald, K. C. B., etc.

We have, etc.,

DRAKE, JACKSON & HELMCKEN.

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[Inclosure 9.]

*Mr. Burbidge to Mr. Hardie.*

DEPARTMENT OF JUSTICE, CANADA,
*Ottawa, September* 12, 1887.

SIR: I have the honor to inclose for your information a copy of a letter which has been received by the minister of justice from Messrs. Drake, Jackson & Helmcken, in which they report with reference to the sealing vessels which have been seized in the Behring Sea by the United States authorities.

I am to state that the minister of justice has taken no action with respect to this communication, but that he is of the opinion that the minister of marine and fisheries should at his earliest convenience take steps to communicate the substance thereof to the colonial office and to the British minister at Washington.

I have, etc.,

GEORGE W. BURBIDGE, D. M. J.

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## No. 32.

*Mr. Garland to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, March* 9, 1888. (Received March 9.)

SIR: In examining the question submitted to me informally by you on yesterday, as by the memorandum herewith returned, I beg leave to say that the bond indicated, I am of opinion, can be given in pursuance of rule 10 of the practice in admiralty, as prescribed by the Supreme Court in the collection of its rules published 1887, page 65. The doubt that I had in my mind when the question was first suggested arose not upon the mere matter of the general rules of practice in admiralty cases, but whether the bond could be give in cases for direct forfeiture, as these are. On examining the case of the United States *v.* Ames (99 U. S., p. 35, *et seq.*), Judge Clifford, in delivering the opinion of the court, on pages 39 and 40, states that the better opinion is that *even in seizures for forfeiture* the bond may be executed in the same manner, etc., and I think myself that that is the proper view of the question.

The bond to be given must be after appraisement under order of the court where the property is held, and for the amount of that appraisement, conditioned for the return of the property after the final determination of the cases by the courts, and no other kind of bond would be sufficient.

Very truly yours,

A. H. GARLAND,
*Attorney-General.*

[Inclosure.]

MEMORANDUM.

DEPARTMENT OF STATE,
*Washington, March* 7, 1888.

Canadian sealers seem required to carry appeal to United States court, or by failure to do that will forfeit bonds. Can they be allowed to bond vessels and skins, without obligation to appeal and pending definite settlement between United States and Great Britain?

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No. 33.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *March* 26, 1888. (Received March 29.)

SIR: With reference to the proposal that concerted action be taken by Great Britain, the United States, and other interested powers, in order to preserve from extermination the fur seals which at certain seasons are found in Behring Sea, I am requested by the Marquis of Salisbury to inform you that the Russian ambassador in London has been communicated with on the subject, and that he has referred to his Government for instructions. But in making this communication to you I am instructed to state that this action on the part of Her Majesty's Government must not be taken as an admission of the rights of jurisdiction in Behring Sea exercised there by the United States authorities during the fishing seasons of 1886–'87 and 1887–'88, nor as affecting the claims which Her Majesty's Government will have to present on account of the wrongful seizures which have taken place of British vessels engaged in the seal-fishing industry.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 34.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, March* 30, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 26th instant in which you inform the Department that the action of Her Majesty's Government in respect to the proposal of this Government, for an arrangement to protect the fur seal from extermination in Behring Sea, is not to be taken as an admission of the jurisdiction of the United States over Behring Sea, nor as affecting the claims which Her Majesty's Government will have to present on account of the seizure of certain British vessels in those waters.

I have, etc.,

T. F. BAYARD.

No. 35.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *April* 2, 1888. (Received April 3.)

SIR: I have the honor to inform you that the Marquis of Salisbu has received intimation from the Canadian Government to the effe that orders have been issued by the United States Government for tl capture of British ships fishing in Behring Sea, and that he has tel graphed to me to represent earnestly the extreme importance of enablir Her Majesty's Government to contradict this rumor.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 36.

*Sir L. S. Sackville West to Mr. Bayard.*

[Note verbale.]

Her Majesty's Government have just received the particulars of tl claims for compensation on account of British sealers seized and warne off by the United States authorities in Behring Sea.

A just assessment of these claims appears to them difficult withoı investigation and verification, and they therefore wish to ascertai whether the United States Government would be disposed to agree t a mixed commission, to be restricted to inquiring in each case wheth compensation is due and the amount of such compensation.

WASHINGTON, *April* 18, 1888.

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No. 37.

*Mr. Bayard to Sir L. S. Sackville West.*

[Note verbale.]

DEPARTMENT OF STATE,
*Washington, April* 21, 1888.

Responding to the note verbale of Sir Lionel West, dated the 18t instant, it is suggested on behalf of the United States that, as the cas of seizure of British sealing vessels in Behring Sea, therein referred t are now in court pending an appeal from a judicial decision, it is prefer ble to await the judgment of the appellate court in the premises.

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No. 38.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *April* 30, 1888. (Received May 2.)

SIR: With reference to pending legal proceedings in the cases British vessels seized by the United States authorities in Behring Se

I have the honor to inform you that I am instructed by the Marquis of Salisbury to propose to the United States Government that the time limited for the prosecution of the appeals in these cases should, by consent, be extended for such a period as may permit of a settlement of the claims in question by diplomatic negotiation without prejudice to the ultimate legal remedy by appeal, should such negotiation be unsuccessful, and that the vessels and skippers should be at once released on security.

It is understood, indeed, that permission has actually been given to the owners of these vessels to bond them, pending appeal, provided the sureties are citizens of the United States and resident therein, and under these circumstances the proposal for an extension of the time limited for such appeal is submitted, in view of any diplomatic negotiations which may ensue having for object satisfactory adjustment of all matters connected with these cases.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 39.

*Sir L. S. Sackville West to Mr. Bayard.*

WASHINGTON, *May* 25, 1888. (Received May 26.)

SIR: On the 30th of April I had the honor to address you, as instructed by the Marquis of Salisbury, on the subject of the appeals pending in the cases of British vessels seized by the United States in Behring's Sea, and Her Majesty's Government have now requested me to ask you for a reply to my above-mentioned communication.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 40.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, May* 28, 1888.

MY DEAR SIR LIONEL: In regard to the inquiry contained in your note of the 25th instant, relating to the British vessels seized in Behring's Sea, I should be glad to have an interview with you this afternoon at 3 o'clock, should that hour be convenient for you to come to the Department.

I am, etc.,

T. F. BAYARD.

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No. 41.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, May* 28, 1888.

SIR: I have the honor to acknowledge your notes of the 30th ultimo and 25th instant, both relating to the appeals taken in the judicial

court in Alaska from decrees in cases of British vessels seized by the United States revenue officials in Behring Sea under charges of having violated the laws of the United States regulating the killing of fur-seals. I must excuse myself for the delay in making reply to your note of April 30, which was caused by my desire to obtain from you a verbal explanation of what appeared to me an inadvertent expression contained therein, from which it appeared that the "skippers" were held under arrest as well as the sealing vessels.

In my personal interview with you to-day it became mutually understood that there has been and is no such personal detention in any of the cases, but the proceedings have all been *in rem* against the vessels so employed and their outfits.

The suggestion of the Marquis of Salisbury that the time limited for the prosecution of the appeals (entered already or proposed to be entered) in the cases referred to should be extended in order to give an opportunity for a diplomatic settlement will meet with favorable consideration within the limits of the statutory provision in relation to the docketing and prosecution of appeals.

While it is not within the power of the Executive branch to alter or extend the statutory limitation in respect of the time of entering such appeals, yet so far as agreement of both parties may prevail in procuring postponements of the arguments and pleadings after the appeal has been duly taken, I apprehend that there will be every disposition on the part of the prosecution to give time for diplomatic arrangement.

Accept, sir, etc.,

T. F. BAYARD.

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No. 42.

*Sir L. S Sackville West to Mr. Bayard.*

[Memorandum.]

WASHINGTON, *May* 28, 1888. (Received May 29.)

In the cases of the condemned Behring Sea sealing vessels and their cargoes, it appears that the proctors for some (and possibly all) of the British sealers failed to take an appeal from the decrees of condemnation entered by the district court at Sitka; consequently they have lost the benefit of the Attorney-General's order permitting release of the property on bond pending decision of the appeals, and as the decrees have become final, have no other than a diplomatic remedy left.

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No. 43.

*Mr. Bayard to Sir L. S. Sackville West.*

Personal.]

DEPARTMENT OF STATE,
*Washington, May* 29, 1888.

DEAR SIR LIONEL: I have just sent you a reply to your notes (official) of April 30 and May 25 relating to appeals in the cases of seizure in Behring Sea.

I have this moment received your note of to-day inclosing a memorandum to the effect that by reason of the failure of the proctors of the

vessels so seized, no appeals from the decrees of condemnation have been entered, and the time fixed by law for doing so having expired, none other than relief through diplomatic channels remains.

It is much to be regretted that the order of the Attorney-General respecting acceptance of security and release of these vessels had not been availed of by these parties. I will, however, write at once to my colleague, the Attorney-General, and see what remains to be done in his Department.

Very truly, yours,

T. F. BAYARD.

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No. 44.

*Mr. Bayard to Mr. Garland.*

DEPARTMENT OF STATE,
*Washington, May* 29, 1888.

SIR: I have just received a note from the British minister at this Capital, inclosing a memorandum in relation to the case of seizure of British vessels by United States revenue officials in Behring Sea. I inclose a copy of this memorandum and will ask you to inform me whether there still remains any mode by which the decrees of condemnation can be reviewed.

I have, etc.,

T. F. BAYARD.

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No. 45.

*Mr. Garland to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, May* 31, 1888. (Received June 1.)

SIR: I have the honor to acknowledge the receipt of your letter of the 29th instant, inclosing a copy of a memorandum from the British minister, in relation to the cases of seizure of British vessels in Behring Sea, and to say that I know of no mode remaining by which the decrees of condemnation can be reviewed.

Very respectfully,

A. H. GARLAND.

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No. 46.

*Sir L. S. Sackville West to Mr. Bayard.*

BEVERLY, MASS., *August* 6, 1888. (Received August 8.)

SIR: I have the honor to inform you that Her Majesty's Government have received intelligence to the effect that four British ships seized last year in Behring Sea are being taken to Port Townsend for sale by the United States authorities. It would seem that this action has been taken in consequence of the judge of the district court of Alaska having refused to bond the owners, upon the ground that their application was too late.

The Marquis of Salisbury has now requested me to ask the United States Government to postpone the sale of the said vessels pending the settlement of the question of the legality of the seizure.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 47.

*Mr. Bayard to Mr. Jenks.*

DEPARTMENT OF STATE,
*Washington, August* 8, 1888.

SIR: I hand you inclosed a copy of a note this day received by me from Sir Lionel S. S. West, the British minister at this capital, in which on behalf of his Government he asks for a postponement of the sale of four British vessels seized last year in Behring Sea and condemned for violation of the United States Statutes regulating the killing of fur seal.

Although the right of statutory appeal may have been lost by lapse of time, yet I suppose that the proceedings in execution of the decree are within the discretionary control of your Department, and unless the delay asked for should cause irreparable loss, I hope you may find the power and disposition to grant it.

Will you acquaint me with your decision, and in case you have ordered a stay in the proceedings, to so inform me, that I can communicate it to the British minister?

Very respectfully, yours,

T. F. BAYARD.

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No. 48.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, August* 8, 1888.

SIR: I have the honor to acknowledge your note, dated at Beverly, Mass., on the 6th instant, by which I am informed that in the case of four British sealing vessels condemned last year for killing fur seal in Alaskan waters in violation of the laws of the United States, you are instructed to ask for a postponement of the time for the sale of the vessels referred to, in execution of the decree.

I have already transmitted a copy of your note to my colleague, the Attorney-General, and will communicate his reply as soon as it shall have been received.

Accept, etc., T. F. BAYARD.

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No. 49.

*Mr. Jenks to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, August* 10, 1888. (Received August 13.)

SIR: I have the honor to acknowledge receipt of your letter of August 8, with its inclosure from the British minister, and to inform you

that in pursuance of the request therein conveyed I have directed by telegram and letter the postponement of the sale of the four British vessels seized in Behring Sea, and instructed the United States marshal in charge to receive bonds in lieu of the vessels.

Very respectfully,

G. A. JENKS,
*Acting Attorney-General.*

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No. 50.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, August* 13, 1888.

SIR: With further reference to your note of the 6th instant, conveying the request of the Marquis of Salisbury for a postponement of the sale of four British vessels seized in Behring Sea last year, I have now the honor to state that I have just received a letter from the Acting Attorney-General, informing me that, in pursuance of the request so made, he has directed by telegram and letter the postponement of the sale of the vessels in question and has also instructed the United States marshal in charge to receive bonds in lieu of the vessels.

Accept, etc.,

T. F. BAYARD.

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No. 51.

*Sir L. S. Sackville West to Mr. Bayard.*

BEVERLY, MASS., *August* 16, 1888. (Received August 21.)

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, informing me that in pursuance of the request of the Marquis of Salisbury, made through me, the Acting Attorney-General has directed by telegram and letter the postponement of the sale of the vessels in question, and has also instructed the United States marshal in charge to receive bonds in lieu of the vessels.

I have, etc.,

L. S. SACKVILLE WEST.

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No. 52.

*Mr. Jenks to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, September* 3, 1888. (Received September 4.)

SIR: I have the honor to send you copies of letters of the 23d and 25th ultimo from Mr. Atkins, United States marshal for the district of Alaska, and to ask for an expression of your views upon the propriety of an immediate sale of the vessels mentioned by the marshal on consideration of the statements he makes in relation to them.

Very respectfully,

G. A. JENKS,
*Acting Attorney-General.*

[Inclosure No. 1.]

*Mr. Atkins to Mr. Garland.*

DISTRICT OF WASHINGTON TERRITORY,
OFFICE OF THE UNITED STATES MARSHAL,
*Seattle, Wash., August* 23, 1888.

SIR: In reference to the four condemned British vessels now in my custody, I have the honor to report:

That the owner of the schooners *Anna Beck*, *Grace*, and *Dolphin* claims that the appraisement made at Sitka one year ago was at the time excessive, and that their value, on account of the inclement climate of Alaska, has in the meantime been constantly depreciating, and therefore declines to bond them at such appraisement, but requests a new appraisement, which, if not granted, they desire the sale to proceed. The owner says, however, that he will furnish satisfactory bonds for the schooner *Anna Beck* at her present appraised value if it can be effected, subject to a final settlement of the matter, and without the expense of an appeal to the Supreme Court.

Having myself a practical knowledge of the value of such property, I fully coincide with the claimant that the valuation put on the schooners *Grace* and *Dolphin* at Sitka was excessive.

The schooner *Ada* is owned and registered at Shanghai, China, and her owner, whoever he may be, has not as yet made claim or appearance.

In the meantime the vessels are remote from my district, thus greatly increasing the responsibility of their safe custody, and the expense thereof constantly increasing.

I desire to be instructed, in case vessels are not soon sold or bonded, what further action to take in reference to returning to my district and leaving the vessels in charge of a special deputy.

Very respectfully,

BARTON ATKINS,
*United States Marshal.*

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[Inclosure No. 2.]

*Mr. Atkins to Mr. Garland.*

DISTRICT OF ALASKA,
OFFICE OF UNITED STATES MARSHAL,
*Portland, Oregon, August* 25, 1888.

SIR: In view of the present situation relative to the British vessels in my custody, now moored at Port Townsend, W. T., I beg leave to state as follows:

That all of said vessels, owing to the length of time they have been out of commission, are in a dilapidated condition, and that their depreciation in value is constant and rapid.

That they are small in size, the combined tonnage of the four being only 249 tons.

That the owner of the *Anna Beck*, *Grace*, and *Dolphin*, Capt. J. D. Warren, of Victoria, B. C., has notified me that he prefers that the *Grace* and *Dolphin* should be sold without further delay, and the *Anna Beck* also, unless he can bond that vessel without instituting an appeal to the Supreme Court or making a journey to Sitka for that purpose.

That if longer held in custody they will have to be removed from Port Townsend to some place secure from the fall and winter winds for permanent moorings. All of which will be attended by much greater expense comparatively than has heretofore been required for their safe custody.

I do not hesitate to recommend, in interest of all concerned, that the vessels, if not bonded, should be sold without delay.

It is my purpose soon to repair to Port Townsend, there to await Department orders.

Very respectfully, your obedient servant,

BARTON ATKINS,
*United States Marshal.*

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## No. 53.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, September* 10, 1888.

SIR: Referring to previous correspondence in relation to the sale of the four British vessels condemned for taking seals illicitly in Behring

Sea in 1887, I have the honor to inform you that I have received a communication from the Acting Attorney-General of the 3d instant, in which an expression of my views is requested upon the propriety of an immediate sale of the vessels in view of certain statements made in regard to them.

As an order for the postponement of the sale and the bonding of the vessels was issued by the Department of Justice, in compliance with the request of Lord Salisbury communicated to this Department, I inclose herewith a copy of the letter of the Acting Attorney-General, together with its inclosures, and will be glad to learn whether, in the light of the facts now disclosed, it is still the desire of his lordship that the sale should not be proceeded with.

I have, etc.,

T. F. BAYARD.

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No. 54.

*Mr. Jenks to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, September* 26, 1888. (Received September 27.)

SIR: I have the honor to transmit herewith a copy of a letter of the 7th instant, from the United States attorney for Alaska, relative to the bonding of the condemned sealing vessels *Dolphin*, *Grace*, *Anna Beck*, and *Ada*, also a copy of a letter of the 10th instant from T. J. Hamilton, United States marshal for Washington Territory, whom Marshal Atkins, of Alaska, has appointed as his deputy in the case. Mr. Hamilton reports that the four vessels are safely moored at Port Townsend, and will be held subject to further instructions touching their sale. Suggesting that as the season advances the probability of realizing a fair price for the vessels will be correspondingly diminished, and that the expenses attending their retention by the marshal are constantly accruing, I respectfully refer the correspondence for your consideration and such recommendations as you deem proper as to the propriety of their speedy disposal by sale.

Very respectfully,

G. A. JENKS,
*Acting Attorney-General.*

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[Inclosure No. 1.]

*Mr. Hamilton to Mr. Garland.*

DISTRICT OF WASHINGTON TERRITORY,
OFFICE OF UNITED STATES MARSHAL,
*Seattle, Wash., September* 10, 1888.

SIR: I have the honor to state that on the 7th instant Barton Atkins, esq., United States marshal for Alaska, transferred to me the custody of the condemned schooners *Grace*, *Dolphin*, *Anna Beck*, and *Ada*, and appointed me his deputy in the usual form, and delivered to me the original writs of *venditioni exponas* issued from the United States district court of Alaska for the sale of said schooners. The vessels are safely moored at Port Townsend, and will be held subject to instructions from the Department touching their sale, or other disposition of the same.

Very respectfully,

T. J. HAMILTON,
*United States Marshal.*

[Inclosure No. 2.]

*Mr. Grant to Mr. Garland.*

DISTRICT OF ALASKA, DISTRICT ATTORNEY'S OFFICE,
*Sitka, September* 7, 1888.

SIR: Yours of August 10, received and noted, directing me to take such steps as will lead to the bonding of the four English vessels, *Dolphin, Grace, Anna Beck,* and *Ada.* I don't know that you understand the situation of these cases. No defense was made in them, except the demurrer of Mr. Drake's, which was never filed at a pleading. No claim was ever made on the records. In fact no action ever taken that justified them in appearing at all. Two terms of court have passed since, and no action taken. Of course if they come in and ask to appear and make defense and to bond, etc., I will act according to your suggestion; but it will be a queer-looking record if the court allows them to come in now. The property was all appraised. I am informed that they bonded one vessel on the sound, but refused to bond the others because appraised too high.

In the meantime the order for sale will be recalled when the marshal returns.

Mr. Drake filed a stipulation with Mr. Delaney, acting for the United States, that if a decree of forfeiture was entered the vessel should be sold below. That is the only paper filed. Drake wouldn't let his name appear as attorney. If the parties appear here, however, I will try and help them make a record as desired.

Respectfully,

WHIT. M. GRANT,
*District Attorney.*

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No. 55.

*Mr. Bayard to Sir L. S. Sackville West.*

DEPARTMENT OF STATE,
*Washington, September* 27, 1888.

SIR: Recurring to the subject of the four British vessels condemned for taking seals illicitly in Behring Sea in 1887, I have the honor to inform you that I have received from the Acting Attorney-General a letter dated the 26th instant, inclosing copies of letters from the United States attorney for Alaska and the United States marshal for Washington Territory of the 7th and 10th instants, respectively, in relation to the same matter.

The four vessels, the schooners *Grace, Dolphin, Anna Beck,* and *Ada,* have been transferred by the United States marshal for Alaska to the custody of the United States marshal for Washington Territory, and are now at Port Townsend, subject to instructions from the Department of Justice touching their sale or other disposition.

The Department is informed that none of the vessels have been bonded, and that the owners of three of them have refused to take that step, on the ground that their appraisement was too high. As the season advances the probability of realizing a fair price for the vessels will diminish, and the expenses incident to their retention by the marshal are necessarily accruing.

These considerations make it proper that a decision in regard to the disposition of the vessels should speedily be reached, and I have the honor to request that, if it is desired to postpone the sale still further, the Department may be assured at an early day that an arrangement will be made whereby the vessels may be saved from becoming a loss.

I have, etc.,

T. F. BAYARD.

## No. 56.

### *Mr. Garland to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, October* 11, 1888. (Received October 12.)

SIR: I herewith inclose copies of communications received from W. M. Grant, United States attorney for Alaska. From the facts submitted by him, in connection with those contained in my letter of the 26th of September, I submit whether it will not be expedient and for the best interest both of the United States and adverse claimants, if there be such, that the vessels referred to be speedily sold. An answer is desired at your earliest convenience.

Very respectfully,

A. H. GARLAND.

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[Inclosure No. 1.]

### *Mr. Grant to Mr. Garland.*

DISTRICT OF ALASKA, DISTRICT ATTORNEY'S OFFICE,
*Sitka, September* 20, 1888. (Received October 12.)

SIR: Marshal returned from Port Townsend says no vessel was bonded, and now the parties have concluded not to bond and want the sale to go on, but I shall instruct the marshal to await instructions from you. How long shall I wait for the parties to act? No owners have appeared on the record; the record does not show who they are. No claims are filed or bond for costs given. The cases were submitted on the agreement signed by Mr. Drake for "the masters," and on his demurrer as representative of Canadian Government.

Very respectfully,

WHIT. M. GRANT,
*District Attorney.*

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[Inclosure No. 2.]

### *Agreement between the United States and the masters of the schooners seized in* 1887.

IN THE DISTRICT COURT OF THE TERRITORY OF ALASKA.

[The United States *vs.* the British schooners *Dolphin*, *Anna Beck*, *Grace*, and *Ada*.]

It is hereby stipulated and agreed between the plaitiffs and the masters of the defendant schooners that the demurrer filed in the matter of the information against J. D. Warren, and the agreement therein, shall apply to the libels filed or to be filed against the above vessels. It is further stipulated and admitted as a fact that the masters of the above-named vessels did kill seals during the month of July, 1887, in that portion of Behring Sea claimed by the United States under the treaty of 1867 between Russia and the United States and beyond the limit of 10 miles from the nearest land.

It is further stipulated that in case the vessels or any of them shall be condemned by any order of the court that the same shall not be sold until the expiration of three months from the publication of any order ordering such sales, and that such sales shall take place at Port Townsend or some other point on Puget Sound.

It is further stipulated that the defendants may give security for appeal to the Supreme Court of the United States or such other court as may have jurisdiction by bonds of any qualified bondsman in Washington Territory, Oregon, or California.

Upon the question of facts thus agreed upon the parties submit the cases to the court upon the law question raised by the demurrer.

On behalf of the masters of the above schooners.

M. W. DRAKE.
A. K. DELANEY,
*Attorney for the United States.*

SEPTEMBER 10, 1887.

## No. 57.

### *Lord Sackville to Mr. Bayard.*

BEVERLY, *October* 12, 1888. (Received October 16.)

SIR: With reference to correspondence which has passed relative to the bonding of the British ships *Grace*, *Dolphin*, and *Anna Beck*, which were seized some time since in Behring Sea, and in connection with the directions given by the United States Acting Attorney-General to postpone the sale of the schooners and to receive bonds in lieu of the vessels, I have the honor to inclose extract from an approved minute of the privy council of Canada, and to inform you that the Marquis of Salisbury has instructed me to ask that the United States authorities may be moved to authorize the re-appraisement of the schooners *Grace* and *Dolphin*, and that instructions may be given in the case of the *Anna Beck* that the proposed bonds of the owner may be accepted subject to a final settlement of the question.

I have, etc.,

SACKVILLE.

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[Inclosure.]

*Extract from a Minute of the Privy Council of Canada, dated September* 30, 1888.

The minister of marine and fisheries observes that copies of the correspondence referred to confirm the intimation conveyed by the above telegram that an order for the postponement of the sale and permitting the bonding of these vessels at the value already appraised, had been made by the Department of Justice at Washington, in compliance with the request of Lord Salisbury.

Subsequent to the receipt of this order, the United States marshal at Seattle, Wash., informed the Attorney-General for the United States that the owners of the schooners *Anna Beck*, *Grace*, and *Dolphin* claimed that not only was the appraisement made at Sitka a year previously, excessive but that the value of the vessels on account of the inclement climate at Alaska had in the mean time been constantly depreciating, and they therefore declined to bond them, with the exception of the *Anna Beck*, at such appraisement, but requested a new appraisement, and stated that if a new appraisement was not allowed the owner desired the sale should proceed.

It further appears from the same communication, that in the case of one of the vessels, the *Anna Beck*, the owner is willing to furnish satisfactory bonds, at the value already appraised, if this can be done, subject to a final settlement of the matter, and without necessitating an appeal to the Supreme Court of the United States.

The minister further observes that, touching the question of excessive appraisement, the United States marshal states as follows: "Having myself a practical knowledge of the value of such property, I fully coincide with the claimant, that the valuation put on the schooners *Grace* and *Dolphin* was excessive."

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## No. 58.

### *Mr. Rives to Mr. Garland.*

DEPARTMENT OF STATE,
*Washington, October* 17, 1888.

SIR: Referring to your letter of the 11th instant, in relation to the postponement of the sale of the British schooners condemned for taking seals in Behring Sea in 1887, I have the honor to inclose herewith a copy of a note received yesterday from the British minister, bearing

date the 12th instant, on the same subject; and shall be glad to receive an expression of your views on the arrangement proposed by the British Government in regard to the disposition of the vessels.

I have, etc.,

G. L. RIVES.

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No. 59.

*Mr. Garland to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, October* 20, 1888. (Received October 22.)

SIR: By your communication of the 17th of October, 1888, you request "an expression of my views on the arrangement proposed by the British Government in regard to the disposal of the vessels" *Grace*, *Dolphin*, and *Anna Beck*. The arrangement referred to is that the United States authorize a re-appraisement of the schooners *Grace* and *Dolphin*, and that instructions be given in the case of the *Anna Beck* that bonds of the owner may be accepted, subject to the final settlement of the question. The libels against the vessels were submitted on a stipulation, dated the 10th day of September, 1887, by W. M. Drake, on behalf of the masters. They were, on or about the 3d day of October, 1887, after hearing, condemned, and, in pursuance of the terms of the stipulation, were ordered to be sold at Port Townsend. The time for appeal to the Supreme Court of the United States has long since expired. On the 25th day of August, 1888, the United States marshal for Alaska reported:

> That the owner of the *Anna Beck*, *Grace*, and *Dolphin*, Capt. J. W. Warren, of Victoria, B. C., notified me [him] that he prefers that the *Grace* and *Dolphin* should be sold without further delay, and the *Anna Beck* also, unless he can bond that vessel without instituting an appeal to the Supreme Court or making the journey to Sitka for that purpose.

The aggregate tonnage of the three vessels, with the *Ada* (for which no owner has been heard from), is but 279 tons. The vessels, if not sold, will soon be substantially valueless. If attempt be made to keep them over the winter a total loss may result. I therefore adhere to the views expressed in my former communication, that the interest of all concerned will be best subserved by an early sale, and earnestly hope I may receive a prompt communication from you concurring therein.

Very respectfully,

A. H. GARLAND.

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No. 60.

*Mr. Bayard to Mr. Garland.*

DEPARTMENT OF STATE,
*Washington, October* 27, 1888.

SIR: Referring to previous correspondence concerning the disposition of the British vessels *Grace*, *Dolphin*, and *Anna Beck*, condemned for taking seals illicitly in Behring Sea, I have the honor to acknowledge the receipt of your letter of the 20th instant on the subject, and

to say in reply that, under the circumstances, the wiser course for all concerned is to let the sale take place at once, as delay is impracticable and can only be productive of loss.

I have, etc.,

T. F. BAYARD.

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No. 61.

*Mr. Garland to Mr. Bayard.*

DEPARTMENT OF JUSTICE,
*Washington, November* 14, 1888. (Received November 16.)

SIR: I have the honor to acknowledge receipt of your communication of the 27th ultimo, concerning the disposition of the British vessels now lying at Port Townsend, Wash., and to inform you that T. J. Hamilton, deputy United States marshal in charge, has this day been directed to take the necessary steps to effect the sale of the four vessels as speedily as possible.

Very respectfully,

A. H. GARLAND.

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No. 62.

*Mr. Bayard to Mr. Garland.*

DEPARTMENT OF STATE,
*Washington, November* 17, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 14th instant, stating that Deputy United States Marshal T. J. Hamilton, in charge of the four British vessels now lying at Port Townsend, Wash., has been directed to take steps for their speedy sale, and to say in reply that the Department will be glad to be informed of what may be done by that officer under the order in question.

I have, etc.,

T. F. BAYARD.

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No. 63.

*Mr. Herbert to Mr. Bayard.*

WASHINGTON, *November* 23, 1888. (Received November 23.)

SIR: With reference to your note of September 27 last, respecting the sale of four British vessels condemned for taking seals illicitly in Behring Sea, in 1887, I have the honor to state that I have this day instructions from the Marquis of Salisbury to inform you that the owners of the *Ada* do not object to the original appraisement.

I have, etc.

ARTHUR HERBERT
For M. H. HERBERT.

No. 64.

*Mr. Bayard to Mr. Garland.*

DEPARTMENT OF STATE,
*Washington, November* 27, 1888.

SIR: Referring to the letter of your Department of September 26 last, respecting the sale of four British vessels condemned for taking seals illicitly in Behring Sea, in 1887, I have the honor to inclose a copy of a note of the British chargé *ad interim*, by which it appears that the owners of the *Ada* do not object to the original appraisement.

I have, etc.,

T. F. BAYARD.

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No. 65.

*Mr. Bayard to Mr. Herbert.*

DEPARTMENT OF STATE,
*Washington, November* 28, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, stating that the owners of the *Ada*, one of the four British vessels condemned for taking seals illicitly in Behring Sea, do not object to the original appraisement, and to say that I have made known the contents thereof to the Attorney-General.

I have, etc.,

T. F. BAYARD.

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No. 66.

*Mr. Herbert to Mr. Bayard.*

WASHINGTON, *December* 5, 1888. (Received December 5.)

SIR: With reference to the case of the seizure of four British sealing ships in Behring Sea, I have the honor to inclose, for convenience of reference, copy of Lord Sackville's dispatch of October 12* (without its inclosure) to your Department, as I have been instructed by the Marquis of Salisbury to call your attention to the fact that up to the present no answer has been received, and to beg the favor of an early reply.

I have, etc.,

ARTHUR HERBERT,
For M. H. HERBERT.

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No. 67.

*Mr. Bayard to Mr. Herbert.*

DEPARTMENT OF STATE,
*Washington, December* 10, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, in which you call attention to the note of Lord Sackville of

* See *supra*, No. 57.

the 12th of October last, in relation to the re-appraisement of three of the four British schooners seized and condemned for illicitly taking seals in Behring Sea in 1887.

The note referred to was at once communicated to the Department of Justice, with a request for an opinion upon the question of re-appraisement. Some time previously, upon the request of the Marquis of Salisbury, the sale of the schooners had been stayed by this Government, in order that full opportunity might be given to their owners to make some arrangement whereby they might become repossessed of the vessels. On the 11th of October, the day preceding the date of the note of Lord Sackville, above referred to, the Attorney-General wrote to this Department a letter, copy of which is inclosed, in which he intimated an opinion that the interests of both the United States and of the claimants would be best subserved by a speedy sale of the vessels. By this letter it appears that, although the schooners had long since been condemned, no claims had been filed by their owners, and no bonds given for costs. Nevertheless, the Department again consulted the Department of Justice in regard to the proposition contained in the note under date of the 12th of October. Under date of the 20th of October last a reply from the Attorney-General was received, copy of which is inclosed. To this I made answer on the 27th of October, expressing my concurrence in the view of the Attorney-General that under the circumstances the wiser course for all concerned was to let the sale of the vessels take place at once, as delay seemed impracticable, and could only be productive of loss.

On the 14th of last month the Attorney-General informed me that he had that day directed the United States marshal in charge of the vessels at Port Townsend, Wash., to take the necessary steps to effect a sale of the four vessels as speedily as possible. Since that time no correspondence on the subject has taken place with the Department of Justice, except a request from this Department on the 17th ultimo that it might be informed of the proceedings of the marshal under the order above stated. When a response to this request shall have been received you will be duly advised of its contents.

I have, etc.,

T. F. BAYARD.

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No. 68.

No. 388.] *Mr. Stevens to Mr. Rives.*

CONSULATE OF THE UNITED STATES OF AMERICA,
*Victoria, British Columbia, December* 31, 1888.
(Received January 12, 1889.)

SIR: Information casually received this morning leads me to believe that this dispatch, with inclosures, may prove of interest.

I am the more induced to make the report inasmuch as my No. 374, of October 8 last, upon the same subject, the seizure off Copper Island on July 1 last of the British sealing schooner *Araunah* gives but a brief account thereof, obtained from the owners of the *Araunah*, and from the public press, before the arrival here of the master of the vessel, and was consequently ambiguous in some minor particulars.

I am now enabled to give a more circumstantial account of the seizure, as Captain Sieward, late master of the *Araunah*, has recently given

me full particulars of the seizure of the vessel and his subsequent proceedings, and has left with me for perusal all papers in his possession concerning the case, being letters—one from the Marquis of Salisbury—copies of telegrams, diagram showing the position of the *Araunah* with reference to Copper Island, at the moment of seizure, copy of treaty of March 30, 1867, between the United States and Russia, and copy of the captain's statement to Her Britannic Majesty's ambassador at St. Petersburg, signed by the captain and part of crew, and sworn to before Her British Majesty's consul at Nagasaki; of which I send only copies of those most pertinent, especially the last-named paper.

Captain Sieward informs me that the agents of the British Government provided fully for the expenses—save those paid by the Russian Government at Petropolovski—and transportation of himself and the crew of the seized vessel to this point, except a very small personal outlay.

I am, etc.,

ROBERT J. STEVENS.

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[Inclosure 1 in No. 388.—Extract.]

*Sir R. B. D. Morier to Messrs. Hall and Goepel.*

ST. PETERSBURG, *November* 30, 1888.

GENTLEMEN: Having received the final communication which you had announced from the master of the *Araunah*, I have submitted the whole case to a careful examination with a view of laying it before the Russian Government.

* * * * * * *

Much is made by Mr. Sieward of the statement of Groburtzky that he would have seized the *Araunah* had she been fitted out with apparatus for seal-catching anywhere within 100 miles south of Commander Islands. Had he assigned this as his true motive for capturing the ship the case would be a very grave one, but as he has given his motives for capturing the ship in a written declaration, we are bound to go by that, and are not at liberty to go outside this declaration and supersede a document signed and sealed by anything he may have said *viva voce*.

It appears to me that it is of extreme importance to note the exact words of this certificate, which does not state that he confiscated the schooner for *being* within customs limit, but for seal-hunting* within the customs limit of Meday (Medway) Island.

* * * * * * *

The conversation between Sieward and Captain Gronberg, of which an affidavit is given in Mr. Sieward's letter of October 18, throws no light upon the subject, because all that Captain Gronberg vouchsafes to say is that the schooner was "about east by south and a half south distant 3 miles from the southeast point of the island," which might leave her just inside or just outside the limit. It is therefore perfectly clear that the ground they will take up will be that the canoes and not the schooner were within the limits.

* * * * * * *

I am, etc.,

R. B. D. MORIER.

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[Inclosure 2 in No. 388.]

*Captain Sieward to Mr. Dehring, Her British Majesty's Chargé d'Affaires, St. Petersburg.*

DEAR SIR: Regarding the seizure of the British sealing schooner *Araunah*, of Victoria, British Columbia, by M. Groburtzky, on the Russian merchantman *Alexander II*, for alleged violation of the fishing and hunting laws of the Imperial Russian Government, of which I informed you in my dispatch of August 9, 1888, from Vladivostock, I now respectfully submit the following facts: On July 1, 1888, at 6.30 a. m., during a heavy fog and calm, I calculated the schooner's position to be 16 miles south by west

* The meaning of this is that the seal-hunting being done from canoes, they were within the limit.

of the southern extreme of Copper or Medway Island. Judging myself in the open waters of the North Pacific Ocean, I ordered the canoes out for hunting. At about 7.30 a. m. the fog lifted, when the schooner was found to be east by south about 6 to 8 miles distant from the southern extreme of island, with the canoes out to the south and west of schooner. When in this position a steamer was sighted, which bore at once down upon us, proving to be the Alaska Commercial Company's steamer *Alexander II*, flying at peak the Russian merchant ensign and at maintop a green flag with white cross. When near, the schooner was hailed, and I, the master, was asked to come aboard steamer, which I did; when on steamer's deck I was informed by Mr. Groburtzky that he would confiscate the schooner for being within the limit. This I denied, but was answered that the boundary ran from Cape Lapatka to the Island of Atton, and that I could protest against the seizure to the authorities at Vladivostock, where the case would be forwarded. As the officer produced no documentary evidence of his authority, I asked upon what authority the seizure was made, in answer to which the officer pointed to the flag at maintop saying, "There is my authority." The officers and crew of schooner were then made prisoners and transferred aboard steamer *Alexander*. The schooner was towed to the settlement Glinka, on Copper Island, where the skins, 133, were landed at company's warehouse. Here I had to deliver the schooner's papers to officer Groburtzky. Before doing so, I demanded a paper stating the reason of confiscation, which I forward herewith, and a copy of which I was asked to sign after it having been translated to me by Mr. J. Mallewansky. It read in substance that this day the schooner *Araunah* had been confiscated for hunting within the limits of the Russian possessions. I here notified Mr. Groburtzky, in presence of Mr. J. Mallewansky, of my protest against this seizure, which protest I would make before nearest representative of Her British Majesty's Government, and in accordance with advice in your T. G. of August 15, 1888, have to admiral and governor of Valdivostock, the certified copy of which I send herewith. The schooner was then brought to Petropolovsky by a crew of steamer *Alexander*, where upon arrival of schooner the salt stores, provisions, and also part of personal property of crew, were sold by Mr. Groburtzky without the confiscation having been declared legal by any authority than his own. I must add that we had no intention whatever to violate the laws of the Imperial Royal Government, but intended to follow the hunting in the open waters of the North Pacific Ocean, neither had we any means to do otherwise, as the hunting outfit of schooner consisted of six Indian canoes manned by two Vancouver Indians each, had no fire-arms aboard, save three old muzzle-loading shotguns, being the property of some of the Indians, also one shotgun and one rifle, being the personal property of some of the members of the crew.

From the foregoing it will be seen that the schooner was set by an unknown current, not marked upon chart, during the fog to the north and east of her course, and the canoes having left the schooner during the fog, when there was no land in sight nor any visible sign to prove the calculated position erroneous, will explain the position of canoes at time of seizure; also that the schooner was not less than the estimated 6 miles from land is clearly proven by the *Alexander* steaming two hours and forty minutes at a rate of 6 knots per hour (see steamer engineer's log) from point of seizure to Glinka, which is 7 miles from south point of island. This can be demonstrated on chart or diagram herewith, showing that it was impossible for schooner to have been, as alleged, within 3-mile limit or gunshot limit. As to the 133 seal skins found aboard, I refer to schooner's fishing log, now in the hands of Imperial Russian Government. I also beg to call attention to the fact that the steamer *Alexander II* is owned by the Alaska Commercial Company, who are also the lessees of Copper and Behring Islands.

As to the reliability of the statement of Mr. Groburtzky as to the true position of schooner at time of seizure I will say that Mr. Groburtzky is no mariner, and consequently no competent judge to personally determine the exact position of schooner. Furthermore, I learned while prisoner aboard of *Alexander* that neither the first nor second officer of steamer had been called upon by Captain Greenburg, of steamer, to witness or verify the bearing and distance of schooner, so that the judgment of the schooner's actual position at time of seizure is but the guess-work of the captain, Greenburg, of steamer *Alexander II*, and of him alone, as a consultation on this serious point with his officers might have resulted in proving the schooner beyond the limits. In submitting the above facts to your careful consideration I beg that you will use every means in your power to effect a restitution of the unjustly and illegally confiscated property and payment of damages incurred thereby.

The above sworn to before Her Britannic Majesty's consul at Nagasaki by myself; H. P. Bonde, mate; W. Standish, steward; G. Braum; P. Doering; the 27th day of August, 1888, and forwarded together with all documents by consul, Mr. Ensby, to St. Petersburg.

Very, etc.,

H. F. S.,
*Master.*

[Inclosure 3 in No. 386.]

*Copies of telegrams.*

[Captain Sieward to the British embassy at St. Petersburg.]

VLADIVOSTOCK, *August* 9, 1888.

Sealing schooner *Araunah*, of Victoria, was set during heavy fog and calm by current within 6 miles of southern extreme of Copper Island when seized by Russian Merchantman Alexander. Left here with crew, among them twelve Vancouver Indians, unprovided. Please advise.

SIEWARD, *Master.*

[From British embassy, St. Petersburg, August 13, 1888, to Sieward, Vladivostock.]

Your telegram received. Steps will be taken with least delay possible.

[From Sieward to British embassy, August 15, 1888.]

Will forward protest, sworn to before consul at Nagasaki. Also, all documents pertaining to seizure. Please advise, if necessary to protest here; also, if other steps required here. Owners names Hall & Gœpel, Victoria.

[Reply, August 17, 1888.]

Your case has been brought to the notice of Russian Government, who have telegraphed to inquire into it. You might protest locally. Forward all documents here.

DEHRING,
*British Chargé d'Affaires.*

# SUPPLEMENT D.

***Papers relating to the negotiations for the conclusion of treaties for the protection of fur-seals in Behring Sea.***

*LIST OF PAPERS.*

FRANCE.


No. 1. Mr. Bayard to Mr. Vignaud. No. 256. August 19, 1887.
No. 2. Mr. McLane to Mr. Bayard. No. 490. October 22, 1887.
No. 3. Mr. Bayard to Mr. McLane. No. 271. November 18, 1887.
No. 4. Mr. Bayard to Mr. McLane. No. 293. February 7, 1888.


GERMANY.


No. 5. Mr. Coleman to Mr. Bayard. No. 498. September 1, 1887.


GREAT BRITAIN.


No. 6. Mr. Phelps to Mr. Bayard. No. 618. November 12, 1887.
No. 7. Mr. Bayard to Mr. Phelps. No. 733. November 25, 1887.
No. 8. Mr. Bayard to Mr. Phelps. No. 782. February 7, 1888.
No. 9. Mr. Phelps to Mr. Bayard. No. 690. February 18, 1888.
No. 10. Mr. Phelps to Mr. Bayard. No. 692. February 25, 1888.
No. 11. Mr. Bayard to Mr. Phelps. No. 810. March 2, 1888.
No. 12. Mr. White to Mr. Bayard. Telegram. April 7, 1888.
No. 13. Mr. White to Mr. Bayard. No. 720. April 7, 1888.
No. 14. Mr. Bayard to Mr. White. Telegram. April 9, 1888.
No. 15. Mr. Bayard to Mr. White. No. 849. April 18, 1888.
No. 16. Mr. White to Mr. Bayard. No. 725. April 20, 1888.
No. 17. Mr. Bayard to Mr. White. No. 864. May 1, 1888.
No. 18. Mr. White to Mr. Bayard. No. 767. June 6, 1888.
No. 19. Mr. White to Mr. Bayard. No. 786. June 20, 1888.
No. 20. Mr. Bayard to Mr. Phelps. No. 948. August 9, 1888.
No. 21. Mr. Rives to Mr. Phelps. No. 982. October 23, 1888.
No. 22. The whales in Hudson Bay. (Extract from newspaper.)


JAPAN.


No. 23. Mr. Hubbard to Mr. Bayard. No. 387. September 28, 1887.
No. 24. Mr. Hubbard to Mr. Bayard. Telegram. September 29, 1887.
No. 25. Mr. Hubbard to Mr. Bayard. No. 388. September 29, 1887.
No. 26. Mr. Bayard to Mr. Hubbard. No. 156. September 30, 1887.
No. 27. Mr. Hubbard to Mr. Bayard. No. 393. October 10, 1887.
No. 28. Mr. Bayard to Mr. Hubbard. No. 171. November 21, 1887.
No. 29. Mr. Hubbard to Mr. Bayard. No. 483. June 23, 1888.
No. 30. Mr. Hubbard to Mr. Bayard. No. 491. July 13, 1888.
No. 31. Mr. Hubbard to Mr. Bayard. No. 492. July 13, 1888.
No. 32. Mr. Bayard to Mr. Hubbard. No. 223. July 18, 1888.
No. 33. Mr. Bayard to Mr. Hubbard. No. 232. August 9, 1888.


RUSSIA.


No. 34. Mr. Wurts to Mr. Bayard. No. 139. September 3, 1887.
No. 35. Mr. Lothrop to Mr. Bayard. No. 151. December 8, 1887.
No. 36. Mr. Lothrop to Mr. Bayard. No. 161. February 22, 1888.
No. 37. Mr. Lothrop to Mr. Bayard. No. 164. March 12, 1888.


SWEDEN AND NORWAY.


No. 38. Mr. Magee to Mr. Bayard. No. 118. March 20, 1888.

## FRANCE.

### No. 1.

*Mr. Bayard to Mr. Vignaud.**

No. 256.] DEPARTMENT OF STATE,
*Washington, August* 19, 1887.

SIR: Recent occurrences have drawn the attention of this Department to the necessity of taking steps for the better protection of the fur-seal fisheries in Behring Sea.

Without raising any question as to the exceptional measures which the peculiar character of the property in question might justify this Government in taking, and without reference to any exceptional marine jurisdiction that might properly be claimed for that end, it is deemed advisable—and I am instructed by the President so to inform you—to attain the desired ends by international co-operation.

It is well known that the unregulated and indiscriminate killing of seals in many parts of the world has driven them from place to place, and, by breaking up their habitual resorts, has greatly reduced their number.

Under these circumstances, and in view of the common interest of all nations in preventing the indiscriminate destruction and consequent extermination of an animal which contributes so importantly to the commercial wealth and general use of mankind, you are hereby instructed to draw the attention of the Government to which you are accredited to the subject, and to invite it to enter into such an arrangement with the Government of the United States as will prevent the citizens of either country from killing seal in Behring Sea at such times and places, and by such methods as at present are pursued, and which threaten the speedy extermination of those animals and consequent serious loss to mankind.

The ministers of the United States to Germany, Sweden and Norway, Russia, Japan, and Great Britain have been each similarly addressed on the subject referred to in this instruction.

I am, etc.,

T. F. BAYARD.

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### No. 2.

*Mr. McLane to Mr. Bayard.*

No. 490.] LEGATION OF THE UNITED STATES,
*Paris, October* 22, 1887. (Received November 11.)

SIR: Referring to your No. 256, of August 19, instructing Mr. Vignaud to draw the attention of the French Government to the necessity of taking steps for the better protection of the fur-seal fisheries in Behring Sea with a view of obtaining its co-operation with the United States in measures intended to reach that end, I have to state that Mr. Flou-

* Identic instructions were sent to our ministers to Germany, Great Britain, Japan, Russia, and Sweden and Norway.

rens is willing to consider favorably any project of international arrangement you may be disposed to submit concerning the matter.

I inclose herewith a translation of a note received from Mr. Flourens which explains his view. The note of September 17, to which he refers, is simply an acknowledgment.

I have, etc.,

ROBERT M. MCLANE.

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[Inclosure with No. 490.—Translation.]

*Mr. Flourens to Mr. McLane.*

PARIS, *October* 21, 1887.

SIR: Mr. Vignaud was good enough to inform me on the 31st of August last that the United States Government was desirous of consulting with the principal nations interested, with the view of making regulations in regard to the seal fisheries in Behring Strait.

Referring to my communication of the 17th September last, I have the honor to inform you that, although the industry in question has not been engaged in by French ship-owners up to the present time, the Government of the Republic is not the less disposed to confer for that purpose with the Government of the United States and to examine any draught of an international convention which may be communicated to it by the Cabinet at Washington.

I will be obliged to you if you will be kind enough to transmit this reply to the American Government.

Accept, etc.,

FLOURENS.

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No. 3.

*Mr. Bayard to Mr. McLane.*

No. 271.] DEPARTMENT OF STATE,
*Washington, November* 18, 1887.

SIR: I have to acknowledge your No. 490, of the 22d ultimo, transmitting copy of a note of the 21st of October from Mr. Flourens, informing this Government of the willingness of the French Republic, though there are not many French ships engaged in the seal fisheries, to confer with us or to examine any draught of a convention intended to regulate those fisheries in Behring Straits.

This response of the French Government to our invitation is very satisfactory, and in due time further instructions on the subject will be sent you.

I am, etc.,

T. F. BAYARD.

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No. 4.

*Mr. Bayard to Mr. McLane.**

No. 293.] DEPARTMENT OF STATE,
*Washington, February* 7, 1888.

SIR: I inclose herewith, for your information, two printed copies of an instruction† of this date to E. J. Phelps, esquire, United States min-

* Identic instructions were sent to the United States ministers to Germany, Russia, and Sweden and Norway.

† For this instruction see *infra*, No. 8.

ister at London, in response to a dispatch from him, in which it was stated that Lord Salisbury had expressed acquiescence in a proposal made by me for an agreement between the United States and Great Britain in regard to the adoption of concurrent regulations for the preservation of fur seals in Behring Sea from extermination by destruction at improper seasons and by improper methods by the citizens of either country.

I am, etc.,

T. F. BAYARD.

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## GERMANY.

### No. 5.

*Mr. Coleman to Mr. Bayard.*

No. 498.] LEGATION OF THE UNITED STATES,
*Berlin, September* 1, 1887. (Received September 17.)

SIR: I have the honor to inclose herewith a copy of a note I have to-day addressed to the foreign office in execution of your instruction No. 246, of the 19th ultimo, relating to the necessity of measures being adopted for the better protection of the fur-seal fisheries in Behring Sea.

I have, etc.,

CHAPMAN COLEMAN.

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[Inclosure with Mr. Coleman's No. 498.]

*Mr. Coleman to Count von Berchem.*

No. 311.] LEGATION OF THE UNITED STATES OF AMERICA,
*Berlin, September* 1, 1887.

The undersigned, chargé d'affaires *ad interim* of the United States of America, has the honor, acting under instructions from his Government, to inform Count von Berchem, under secretary of state in charge of the imperial foreign office, that recent occurrences have drawn the attention of that Government to the necessity of taking steps for the better protection of the fur-seal fisheries in Behring Sea.

Without raising any question as to the exceptional measures which the peculiar character of the property in question might justify the Government of the United States in taking, and without reference to any exceptional marine jurisdiction that might properly be claimed for that end, it has been deemed advisable to seek to attain the desired ends by international co-operation.

It is well known that the unregulated and indiscriminate killing of seals in many parts of the world has driven them from place to place, and by breaking up their habitual resorts, has greatly reduced their number.

Under these circumstances and in view of the common interest of all nations in preventing the indiscriminate destruction and consequent extermination of an animal which contributes so importantly to the commercial wealth and general use of mankind, the Government of the United States has instructed the undersigned to present the subject to the attention of the Imperial Government, and to invite it to enter into such an arrangement with the Government of the United States as will prevent the citizens of either country from killing seals in Behring Sea at such times and places, and by such methods as at present are pursued, and which threaten the speedy extermination of those animals and consequent serious loss to mankind.

The undersigned begs to add that he has been informed by his Government that the ministers of the United States to Sweden and Norway, Russia, France, Great Britain, and Japan have been each similarly addressed on the subject referred to, and avails himself, etc.

CHAPMAN COLEMAN.

## GREAT BRITAIN.

### No. 6.

*Mr. Phelps to Mr. Bayard.*

No. 618.] LEGATION OF THE UNITED STATES,
*London, November* 12, 1887. (Received November 22.)

SIR: Referring to your instructions numbered 685, of August 19, 1887, I have now to say that owing to the absence from London of Lord Salisbury, secretary of state for foreign affairs, it has not been in my power to obtain his attention to the subject until yesterday.

I had then an interview with him, in which I proposed on the part of the Government of the United States that by mutual agreement of the two Governments a code of regulations should be adopted for the preservation of the seals in Behring Sea from destruction at improper times and by improper means by the citizens of either country; such agreement to be entirely irrespective of any questions of conflicting jurisdiction in those waters.

His lordship promptly acquiesced in this proposal on the part of Great Britain and suggested that I should obtain from my Government and submit to him a sketch of a system of regulations which would be adequate for the purpose.

I have therefore to request that I may be furnished as early as possible with a draught of such a code as in your judgment should be adopted.

I would suggest also that copies of it be furnished at the same time to the ministers of the United States in Germany, Sweden and Norway, Russia, France, and Japan, in order that it may be under consideration by the Governments of those countries. A mutual agreement between all the Governments interested may thus be reached at an early day.

I have, etc.,

E. J. PHELPS.

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### No. 7.

*Mr. Bayard to Mr. Phelps.*

No. 733.] DEPARTMENT OF STATE,
*Washington, November* 25, 1887.

SIR: Your No. 618, of the 12th instant, stating the result of your interviews with Lord Salisbury on the subject of the seal fisheries in Behring Sea, is received.

The favorable response to our suggestion of mutually agreeing to a code of regulations is very satisfactory, and the subject will have immediate attention.

I am, etc., T. F. BAYARD.

No. 8.

*Mr. Bayard to Mr. Phelps.*

No. 782.] DEPARTMENT OF STATE,
*Washington, February* 7, 1888.

SIR: I have received your No. 618, of the 12th of November last, containing an account of your interview with Lord Salisbury of the preceding day, in which his lordship expressed acquiescence in my proposal of an agreement between the United States and Great Britain in regard to the adoption of concurrent regulations for the preservation of fur seals in Behring Sea from extermination by destruction at improper seasons and by improper methods by the citizens of either country.

In response to his lordship's suggestion that this Government submit a sketch of a system of regulations for the purpose indicated, it may be expedient, before making a definite proposition, to describe some of the conditions of seal life; and for this purpose it is believed that a concise statement as to that part of the life of the seal which is spent in Behring Sea will be sufficient.

All those who have made a study of the seals in Behring Sea are agreed that, on an average, from five to six months, that is to say, from the middle or towards the end of spring till the middle or end of October, are spent by them in those waters in breeding and in rearing their young. During this time they have their rookeries on the islands of St. Paul and St. George, which constitute the Pribyloff group and belong to the United States, and on the Commander Islands, which belong to Russia. But the number of animals resorting to the latter group is small in comparison with that resorting to the former. The rest of the year they are supposed to spend in the open sea south of the Aleutian Islands.

Their migration northward, which has been stated as taking place during the spring and till the middle of June, is made through the numerous passes in the long chain of the Aleutian Islands, above which the courses of their travel converge chiefly to the Pribyloff group. During this migration the female seals are so advanced in pregnancy that they generally give birth to their young, which are commonly called pups, within two weeks after reaching the rookeries. Between the time of the birth of the pups and of the emigration of the seals from the islands in the autumn the females are occupied in suckling their young; and by far the largest part of the seals found at a distance from the islands in Behring Sea during the summer and early autumn are females in search of food, which is made doubly necessary to enable them to suckle their young as well as to support a condition of renewed pregnancy, which begins in a week or a little more after their delivery.

The male seals, or bulls, as they are commonly called, require little food while on the islands, where they remain guarding their harems, watching the rookeries, and sustaining existence on the large amount of blubber which they have secreted beneath their skins and which is gradually absorbed during the five or six succeeding months.

Moreover, it is impossible to distinguish the male from the female seals in the water, or pregnant females from those that are not so. When the animals are killed in the water with fire-arms many sink at once and are never recovered, and some authorities state that not more

than one out of three of those so slaughtered is ever secured. This may, however, be an overestimate of the number lost.

It is thus apparent that to permit the destruction of the seals by the use of fire-arms, nets, or other mischievous means in Behring Sea would result in the speedy extermination of the race. There appears to be no difference of opinion on this subject among experts. And the fact is so clearly and forcibly stated in the report of the inspector of fisheries for British Columbia of the 31st of December, 1886, that I will quote therefrom the following pertinent passage:

There were killed this year, so far, from 40,000 to 50,000 fur seals, which have been taken by schooners from San Francisco and Victoria. The greater number were killed in Behring Sea, and were nearly all cows or female seals. This enormous catch, with the increase which will take place when the vessels fitting up every year are ready, will, I am afraid, soon deplete our fur-seal fishery, and it is a great pity that such a valuable industry could not in some way be protected. (Report of Thomas Mowat, Inspector of Fisheries for British Columbia; Sessional papers, Vol. 15, No. 16, p. 268; Ottawa, 1887.)

The only way of obviating the lamentable result above predicted appears to be by the United States, Great Britian, and other interested powers taking concerted action to prevent their citizens or subjects from killing fur seals with fire-arms, or other destructive weapons, north of 50° of north latitude, and between 160° of longitude west and 170° of longitude east from Greenwich, during the period intervening between April 15 and November 1. To prevent the killing within a marine belt of 40 or 50 miles from the islands during that period would be ineffectual as a preservative measure. This would clearly be so during the approach of the seals to the islands. And after their arrival there such a limit of protection would also be insufficient, since the rapid progress of the seals through the water enables them to go great distances from the islands in so short a time that it has been calculated that an ordinary seal could go to the Aleutian Islands and back, in all a distance of 360 or 400 miles, in less than two days.

On the Pribyloff Islands themselves, where the killing is at present under the direction of the Alaska Commercial Company, which by the terms of its contract is not permitted to take over 100,000 skins a year, no females, pups, or old bulls are ever killed, and thus the breeding of the animals is not interfered with. The old bulls are the first to reach the islands, where they await the coming of the females. As the young bulls arrive they are driven away by the old bulls to the sandy part of the islands, by themselves. And these are the animals that are driven inland and there killed by clubbing, so that the skins are not perforated, and discrimination is exercised in each case.

That the extermination of the fur seals must soon take place unless they are protected from destruction in Behring Sea is shown by the fate of the animal in other parts of the world, in the absence of concerted action among the nations interested for its preservation. Formerly many thousands of seals were obtained annually from the South Pacific Islands, and from the coasts of Chili and South Africa. They were also common in the Falkland Islands and the adjacent seas. But in those islands, where hundreds of thousands of skins were formerly obtained, there have been taken, according to best statistics, since 1880, less than 1,500 skins. In some places the indiscriminate slaughter, especially by use of fire-arms, has in a few years resulted in completely breaking up extensive rookeries.

At the present time it is estimated that out of an aggregate yearly yield of 185,000 seals from all parts of the globe, over 130,000, or more than two-thirds, are *obtained* from the rookeries on the American and Rus-

sian islands in Behring Sea. Of the remainder, the larger part are taken in Behring Sea, although such taking, at least on such a scale, in that quarter is a comparatively recent thing. But if the killing of the fur seal there with fire-arms, nets, and other destructive implements were permitted, hunters would abandon other and exhausted places of pursuit for the more productive field of Behring Sea, where extermination of this valuable animal would also rapidly ensue.

It is manifestly for the interests of all nations that so deplorable a thing should not be allowed to occur. As has already been stated, on the Pribyloff Islands this Government strictly limits the number of seals that may be killed under its own lease to an American company; and citizens of the United States have, during the past year, been arrested and ten American vessels seized for killing fur seals in Behring Sea.

England, however, has an especially great interest in this matter, in addition to that which she must feel in preventing the extermination of an animal which contributes so much to the gain and comfort of her people. Nearly all undressed fur-seal skins are sent to London, where they are dressed and dyed for the market, and where many of them are sold. It is stated that at least 10,000 people in that city find profitable employment in this work; far more than the total number of people engaged in hunting the fur seal in every part of the world. At the Pribyloff Islands it is believed that there are not more than 400 persons so engaged; at Commander Islands, not more than 300; in the Northwest coast fishery, not more than 525 Indian hunters and 100 whites; and in the Cape Horn fishery, not more than 400 persons, of whom perhaps 300 are Chilians. Great Britain, therefore, in co-operating with the United States to prevent the destruction of fur seals in Behring Sea would also be perpetuating an extensive and valuable industry in which her own citizens have the most lucrative share.

I inclose for your information copy of a memorandum on the fur-seal fisheries of the world, prepared by Mr. A. Howard Clark, in response to a request made by this Department to the U. S. Fish Commissioner. I inclose also, for your further information, copy of a letter to me, dated December 3d last, from Mr. Henry W. Elliott, who has spent much time in Alaska, engaged in the study of seal life, upon which he is well known as an authority. I desire to call your especial attention to what is said by Mr. Elliott in respect to the new method of catching the seals with nets.

As the subject of this dispatch is one of great importance and of immediate urgency, I will ask that you give it as early attention as possible.

I am, etc., T. F. BAYARD.

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[Inclosure 1 in No. 782.]

*Review of the fur-seal fisheries of the world in* 1887.

BY A. HOWARD CLARK.

In the Encyclopædia Britannica, ninth edition, the fur-seal fisheries are credited with an annual yield of 185,000 skins, of which 100,000 are said to be obtained from the Pribyloff Islands, 30,000 from the Commander Islands, 15,000 from the straits of Juan de Fuca and vicinity, 12,000 from the Lobos Islands, 15,000 from Patagonia and outlying islands, 500 from the Falkland Islands, 10,000 from the Cape of Good Hope and places thereabout, and 2,500 from islands belonging to Japan.

The above statistics were communicated by me to the author of the article "Seal Fisheries" in the Encyclopædia and had been carefully verified by the latest official records and by a personal interview with Messrs. C. M. Lampson & Co., of London,

one of the principal fur houses of the world, and by whom most of the annual production of fur seal-skins are placed upon the market.

A review of the subject at this time (January, 1888) necessitates but a slight change in the annual production and in the apportionment to the several fisheries. Some of the fisheries have increased while others have decreased. Taking the average annual yield from 1880 to date, I find that the total production is now 192,457 skins, obtained as follows:

*Annual yield of fur-seal fisheries.*

| | Fur-seal skins. |
|---|---|
| Pribyloff Islands, Behring Sea | 94,967 |
| Commander Islands and Robben Reef | 41,893 |
| Islands belonging to Japan | 4,000 |
| British and American sealing fleets on northwest coast of America (including catch at Cape Flattery and Behring Sea) | 25,000 |
| Lobos Islands at mouth of Rio de la Plata | 12,385 |
| Cape of Good Hope, including islands in Southern Indian Ocean | 5,500 |
| Cape Horn region | 8,162 |
| Falkland Islands | 550 |
| Total | 192,457 |

The statistics for the Pribyloff and Commander Islands are compiled from reports of the Alaska Commercial Company, Mr. Elliott's reports in volume 8, Tenth Census, and in section 5, U. S. Fish Commission report, and trade reports of annual sales in London (Fur Trade Review, published monthly at No. 11 Bond street, New York). The northwest coast statistics are from the annual reports of the department of fisheries of Canada and from Mr. Swan's report in section 5, volume 2, of the quarto report of the U. S. Fish Commission. For Japan, Lobos Islands, Cape of Good Hope, and Falkland Islands the statistics are from the "Annual Statements of the Trade of the United Kingdom with foreign countries and British possessions as presented to Parliament." Statistics for Cape Horn region are from sealing merchants of Stonington and New London, Conn.

The details of the fisheries for a series of years are shown in the following table:

(As to the number of persons employed, it is not possible to give details in all cases. At Pribyloff Islands in 1880 there were 372 Aleuts and 18 whites. At Commander Islands there are about 300 persons; in the northwest coast fishery 523 Indian hunters and 100 whites, and in the Cape Horn fishery about 400 whites, of whom perhaps 300 are Chilians.)

*Number of fur-seal skins from principal fisheries,* 1871 *to* 1887.

[Compiled from official sources by A. H. Clark. No returns for spaces blank.]

| Year. | Pribyloff Islands. | Commander Islands and Robben Reef. | Northwest coast of America. | Japan. | Falkland Islands. | Cape Horn. | Lobos Islands. | Cape of Good Hope. |
|---|---|---|---|---|---|---|---|---|
| 1871 | 63,000 | 3,614 | ..... | (*) | ..... | (†) | ..... | ..... |
| 1872 | 99,000 | 29,319 | ..... | (*) | ..... | (†) | ..... | ..... |
| 1873 | 99,630 | 30,396 | ..... | (*) | ..... | (†) | ..... | ..... |
| 1874 | 99,820 | 31,272 | ..... | (*) | 1,085 | (†) | 7,954 | 9,393 |
| 1875 | 99,500 | 36,274 | ..... | (*) | 100 | (†) | 2,243 | 8,629 |
| 1876 | 99,000 | 26,960 | ..... | (*) | 173 | (†) | 6,618 | 11,225 |
| 1877 | 85,000 | 21,532 | ..... | (*) | 1,386 | (†) | 22,550 | 11,065 |
| 1878 | 95,000 | 31,340 | ..... | (*) | 2,366 | (†) | 11,931 | 13,086 |
| 1879 | 99,968 | 42,752 | 18,500 | (*) | 4,038 | (†) | 6,900 | 15,128 |
| 1880 | 99,950 | 48,504 | 19,150 | (*) | 2,427 | 9,275 | 10,900 | 7,731 |
| 1881 | 85,000 | 42,640 | ..... | (*) | 620 | 6,610 | 8,887 | 8,280 |
| 1882 | 99,800 | 46,000 | ‡17,700 | (*) | 50 | 8,600 | 15,067 | 11,497 |
| 1883 | 78,000 | 25,000 | ..... | 11,943 | 8 | (§) | 12,950 | 7,020 |
| 1884 | 99,500 | 38,000 | ‡15,641 | ..... | 684 | (§) | 10,722 | 3,924 |
| 1885 | 99,600 | 42,000 | ‡15,000 | ..... | ..... | (§) | 11,223 | 4,407 |
| 1886 | 98,000 | 45,000 | ‡38,907 | 3,695 | 68 | (§) | 15,949 | 3,378 |
| 1887 | 99,890 | 48,000 | ‖29,211 | ..... | ..... | (§) | ..... | ..... |

* Annual average estimated at 4,000 skins. † Total 1870 to 1880, 92,750; average, 9,275.
‡ Catch landed at British Columbia vessels. § Returns not received.
‖ Mostly taking in Behring Sea. See Schedule A.

The second point upon which information is requested is "that of the destruction of the fur seal, resulting either in its extermination or the diminution of its yield, in places where it formerly abounded," etc.

At the beginning of the present century there were great rookeries of fur seal at Falkland Islands, at the South Shetlands, at Masafuera, at South Georgia, and at many other places throughout the Antarctic region. These places were visited by sealing vessels, and indiscriminate slaughter of the animals resulted in the extermination of the species or in such diminution in their numbers that the fishery became unprofitable.

The details of the Antarctic fishery are given in section 5, volume 2, of the quarto report of the U. S. Fish Commission, pages 400–467; in report by H. W. Elliott on "Seal Islands of Alaska," 6, 117–124 (reprinted in volume 8, Tenth Census Reports); in "Monograph of North American Pinnipeds," by J. A. Allen (Misc. Pub. XII, U. S. Geological Survey); in "Fanning's Voyages Round the World" (New York, 1833); in "Narrative of Voyages and Travels in Northern and Southern Hemispheres," by Amasa Delano (Boston, 1817); and in numerous other works, to which reference will be found in the above volumes.

A few men are still living who participated in the Antarctic seal fisheries years ago. Their stories of the former abundance of fur seals I have obtained in personal interviews. As to the manner of destruction there is but one thing to say. An indiscriminate slaughter of old and young, male and female, in a few years results in the breaking up of the largest rookeries, and, as in the case of Masafuera and the Falkland Islands, the injury seems to be a permanent one. As an instance, the South Shetlands were first visited in 1819, when fur seals were very abundant; two vessels in a short time securing full fares. In 1820, thirty vessels hastened to the Islands, and in a few weeks obtained upwards of 250,000 skins, while thousands of seals were killed and lost. In 1821 and 1822 Weddell* says "320,000 skins were taken. * * * The system of extermination was practiced, * * * for whenever a seal reached the beach, of whatever denomination, he was immediately killed and his skin taken, and by this means, at the end of the second year, the animals became nearly extinct; the young having lost their mothers when only three or four days old, of course died, which at the lowest calculation exceeded 100,000." In subsequent years, until 1845, these islands were occasionally visited by vessels in search of seal skins, but never after 1822 were many animals found there. About 1845 the Antarctic fur sealing was abandoned. In 1871 the industry was renewed, and a few vessels secured some valuable furs from the South Shetlands, but in a few years voyages there became unprofitable. (See section 5, volume 2, U. S. Fish Commissioner's Report, pp. 402-458.)

The same story may be told of Masafuera, from which island about 3,500,000 fur-seal skins were taken between the years 1793 and 1807 (see section 5, as above, p. 407). Captain Morrell states that in 1807 "the business was scarcely worth following at Masafuera, and in 1824 the island, like its neighbor Juan Fernandez, was almost entirely abandoned by these animals." (Morrell's Voyage: New York, 1832, p. 130.) Scarcely any seals have since been found at Masafuera. Delano states that in 1797 there were two or three million fur seals on that island. Elliott, in his report, already cited, gives accounts of earlier voyages to Masafuera, etc. I have consulted log-books and journals of several voyages, all agreeing in the former abundance and the extermination of the fur seal on Masafuera as well as on other Antarctic or southern islands.

At the Falkland Islands both fur seals and sea lions abounded, but there, too, they were destroyed.

The sealing business at South Georgia was most prosperous in 1800, during which season sixteen American and English vessels took 112,000 fur-seal skins. Though not as important a rookery as some of the other islands, considerable numbers of fur seals have been taken from South Georgia. Since 1870 some good cargoes of elephant-seal oil have been taken there.

Fur seals were abundant at the Tristan d'Acunha Islands at the beginning of the century, and because of the almost inaccessible caves and rocks to which they resort, a few have survived, or least as late as 1873 a few were annually taken there.

On the west coast of Africa, from Cape of Good Hope to 16° south latitude, there was until 1870 a considerable number of fur seals of an inferior quality, but they are now practically exhausted, the few skins marketed as coming from there being taken on various hauling grounds on islets farther south and east. (See Sec. 5, vol. 2, U. S. Fish Com. Report, p. 415.)

The Prince Edward group, Crozet Islands, Kerguelen Land, and other smaller islands in the Southern Indian and Southern Pacific Oceans were important seal fisheries, both for the fur and elephant seal. At none of them is any number of seals found to-day. The English exploring ship *Challenger* visited Kerguelen Land in 1873–'76, and reports:

"Two of the whaling schooners met with at the island killed over seventy fur seals in one day and upwards of twenty at another, at some small islands off Howe Islands

* Weddell's Voyages, p. 130, quoted in sec. 5, vol. 2, quarto report of U. S. F. C., p. 407.

to the north. It is a pity that some discretion is not exercised in killing the animals, as is done at St. Paul Island, in Behring Sea, in the case of the northern fur seal. By killing the young males and selecting certain animals only for killing the number of seals even may be increased; the sealers in Kerguelen Island kill all they can find." (See "Report of the Scientific Results of the Exploring Voyage of H. M. S. *Challenger*, 1873–'76. Narrative of the Cruise, vol. 1, in two parts. 4°. Published by order of Her Majesty's Government, 1885.")

In these volumes will be found similar references to other seal islands visited by the *Challenger*. In referring to Marion Island the report says:

"The ruthless manner in which fur and elephant seals were destroyed by the sealing parties in the early part of this century has had the effect of almost exterminating the colony that used these desolate islands for breeding purposes." (Vol. I, p. 294.)

To recapitulate, concerning seal rookeries south of the equator, I may say that there is no single place where any number are now known to resort, except on the Lobos Islands, off Peru, and at the mouth of the Rio de la Plata, and on the neighboring hauling grounds at the cliffs of Cabo Corrientes. Here they are and have long been protected by the Argentine Republic or Uruguay, and the rookery appears to remain about the same size, with little apparent increase or decrease in the number of animals, as may be seen by statistics of the catch in the table above given.

The small rookeries or hauling grounds at Diego Ramirez Islands, Cape Horn, and the rocky islets in that vicinity, from 1870 to 1883 or 1884, yielded some return to the hardy sealers of Stonington and New London, Conn., from which ports a half dozen vessels have been annually sent. Even this last resort of American sealers is practically exhausted, and only by much search is a profitable voyage made there. Dr. Coppinger, who was at Cape Horn in 1878–'82 (Cruise of the *Alert*, by R. W. Coppinger: London, 1883), tells of the difficulties of sealing at Cape Horn, and of the profits made when even a few skins are secured. In 1880 Captain Temple "came through the western channels of Patagonia, having entered the straits at Tres Montes," and on the Cavadonga group of barren rocks he says he found some thousands of seals.

Had the great southern rookeries been protected by Government it is altogether probable, according to all authorities, that they would to-day yield many thousands of skins, in some cases equal to the valuable returns of the Pribyloff group.

In proceeding up the Southern Pacific from Masafuera we pass St. Felix, the Lobos Islands off Peru, and the Galapagos Islands, on which, as well as on other islands in that ocean, the fur seal once was found, but whence it has been exterminated. North of the equator we meet first the Guadaloupe Islands, where in 1878 there were a few fur seals, presumably migrations from the Pribyloff group. Moving northward along the Californian and northwest coast the fur seal is found in winter and early spring on its way to the great breeding grounds on the Pribyloff Islands. It is during this migration that the Pacific sealing schooners of British Columbia and San Francisco capture them, and it is probable that if the fleet increases in size with a corresponding increase in the number of seals taken, there will ere long be an appreciable decrease in the number of seals on the Pribyloff Islands. This can not but be the result, for many seals are killed and not secured, and there is the same indiscriminate slaughter as regards young and old, male and female, that was practiced at the southern rookeries. The statistics showing the present growing condition of the northwest coast fishery and the efforts of the fishermen to follow the seals even into Behring Sea are already a matter of record and need not be repeated here except to refer to the annual reports of the department of fisheries of Canada. In the report for 1886 will be found (on page 249) the names of the British Columbian fleet, aggregating 20 vessels manned by 79 sailors and 380 hunters, and their catch is given at 38,917 skins as compared with 13 vessels taking 17,700 skins in 1882. The American vessels in this fleet in 1880 and their catch is given by Mr. Swan in section 5, volume 2, of the quarto report of U. S. Fish Commission.

It is not necessary that I refer to the condition of the rookeries on the Pribyloff Islands. There can be no question concerning the advisability of regulating the number of animals to be killed and the selection of such animals as will not interfere with the breeding of the species. The history of the islands at the beginning of the century, when there was an indiscriminate slaughter of fur seals, and the protection of the animals in 1808 and thereafter by the Russian and American Governments is fully told by Veniaminov and by Elliott, and need not be repeated here. (Veniaminov's Zapieskie, etc.; St. Petersburg, 1842; volume 2, pp. 568, quoted by H. W. Elliott in Seal Islands of Alaska, pp. 140–145, volume 8, Tenth Census Report.)

The Commander Islands (Behring and Copper Islands), in Behring Sea, and Robben Reef, near Saghalien, in the Okhotsk Sea, are leased by the Alaska Commercial Company, and are protected by the Russian Government in much the same manner that the Pribyloff Islands are protected by the United States Government. A description of the seal industry on those islands is given by Professor Nordenskiold in Voyage of the Vega, a translation of a portion of his report being given by Mr. Elliott on pages 109–115, in Seal Islands of Alaska. At Robben Reef it is impossible to establish a

station, the rock being often wave-washed, but the Alaska Company send men there in the season to gather from 1,500 to 4,000 skins each year. The agent of the Russian Government confers with the Alaska Company's agent each year to determine the number of skins that shall be taken in the Commander Islands.

The seals taken by the Japanese are those migrating from the Commander group and are not secured in large numbers, the average being about 4,000, though some years as many as 11,000 are taken.

SCHEDULE A.—*Memorandum of seal-skin seizures, vessels, etc., in Behring Sea, in* 1887.

| Name and rig. | Nation. | Tonnage. | Captain. | Owner. | Seized. | Date. | Seals. |
|---|---|---|---|---|---|---|---|
| *Steam-schooners.* | | | | | | | |
| W. P. Sayward | British | 59 | Geo. R. Terry | J. D. Warren | Steamer Rush | July 10 | 477 |
| Anne Beck | do | 36 | Louis Olsen | do | do | July 3 | 336 |
| Grace | do | 76 | Wm. Petit | do | do | July 18 | 769 |
| Dolphin | do | 70 | J. D. Warren | do | do | July 13 | 618 |
| *Schooners.* | | | | | | | |
| Alfred Adams | do | 68 | W. W. Dyer | J. Guteman | do | Aug. 12 | 1,379 |
| Ada | do | 65 | J. Gandin | J. Boskowitz | Steamer Bear | Aug. 25 | 1,876 |
| Lottie Fairfield* | | | | L. A. Hough | Steamer Rush | | |
| Challenger | American | 36 | H. B. Jones | A. Douglass | do | Aug. 5 | 443 |
| Lily L. | do | 63 | J. W. Todd | G. W. Ladd | do | July 1 | 151 |
| Annie | do | 25 | H. Brown | Jas. Laflin | do | July 25 | 195 |
| Kate and Annie | do | 16 | Chas. Lutjen | Chas. Lutjen | do | Aug. 11 | 304 |
| Ellen | do | 12 | T. H. Wentworth. | G. W. Lybyjust | do | Aug. 12 | 577 |
| Alpha | do | 26 | James Talten | Jas. Talten<br>J. V. Garvin | do | Aug. 12<br>Aug. 12 | 195<br>339 |
| San José | do | 51 | J. S. Lee | J. S. Lee<br>J. D. Griffin | do | Aug. 23 | 891 |
| Angel Dolly | do | 18 | A. Tulles | J. D. Griffin | G. R. Tingle, Treas. agent. | Aug. 5 | 178 |
| Allie T. Alger | do | 70 | C. E. Raynor | | Steamer Bear | Aug. 25 | 1,594 |
| Sylvia Handy | do | 68 | J. L. Cathcut | L. N. Handy & Son. | do | Sept. 2 | 1,597 |
| Total | | | | | | | 11,969 |

* Vessel not captured.

*Arrival of sealing schooners from Behring Sea in* 1887, *as far as reported to October* 5, 1887

| Arrived at— | Name of schooner. | No. of skins. |
|---|---|---|
| Port Townsend | Lottie | 700 |
| Victoria | Mary Taylor | 1,000 |
| Do | Pathfinder | 2,300 |
| Do | Penelope | 1,500 |
| Do | Black Diamond | 595 |
| Do | Mountain Chief | 700 |
| Do | Lottie Fairfield | 2,997 |
| Do | Adel | 1,350 |
| Do | Favorite | 1,357 |
| Do | Teresa | 1,246 |
| Do | Triumph | 430 |
| Do | City of San Diego | 1,187 |
| Do | Vanderbilt | 1,500 |
| | | 17,242 |

Recapitulation, as reported up to October 5, 1887: Skins seized, 11,969; skins landed, 17,242; total, 29,211.

[Inclosure 2 in No. 782.]

*Mr. Elliott to Mr. Bayard.*

SMITHSONIAN INSTITUTION,
*Washington, D. C., December* 3, 1887.

SIR: During the course of my extended studies of the fur seal on its breeding and hauling grounds in Behring Sea, I was led naturally into a very careful examination of the subject of its protection and perpetuation. This investigation caused me to give much attention then to the effect which pelagic sealing would have upon the well-being and the conservation of these anomalous and valuable interests of our Government as we view them upon the Pribyloff group.

When preparing, in 1881, a final arrangement of my field-notes and memoranda for publication in my Monograph of the Seal Islands of Alaska (Tenth Census United States of America), the late Professor Baird suggested that I omit the discussion of this theme of pelagic sealing, because it might serve to invite an attack which otherwise would never be made upon these preserves of our Government.

This attack, however, has recently been made, and the thought occurs to me now that a brief epitome of my study of the effect which this plan of sealing will have upon the integrity and value of our fur-bearing interests in Behring Sea—that such a brief yet accurate statement will be of service to you. I therefore venture to present the following transcript:

It is now well understood and unquestioned—

(1) That the fur seal of Alaska is obliged to haul out annually upon the Pribyloff Islands for the purpose of breeding and shedding its pelage.

(2) That from the time of its departure from these islands in the autumn of every year up to the time of its return to them in the following spring it lands nowhere else.

(3) That it arrives en masse upon these islands in June and July and departs from them in October and November.

(4) That when leaving the islands in the fall it heads directly for and rapidly passes out from Behring Sea into the waters of the North Pacific Ocean. Its paths of travel are bee-lines from the Pribyloff group to and through the numerous passes of the Aleutian Archipelago; the passes of Ooninmak, Akootan, Oonalga, Oomnak, and the Four Mountains are most favored by it.

(5) That it returns from the broad wastes of the North Pacific Ocean by these same paths of departure.

Therefore, if you will glance at the map of Alaska you will observe that the convergence and divergence of these watery paths of the fur seal in Behring Sea to and from the Seal Islands resembles the spread of the spokes of a half wheel—the Aleutian chain forms the felloe, while the hub into which these spokes enter is the small Pribyloff group.

Thus you can see that as these watery paths of the fur seal converge in Behring Sea they, in so doing, rapidly and solidly mass together thousands and tens of thousands of widely-scattered animals (as they travel) at points 50 and even 100 miles distant from the rookeries of the Seal Islands.

Here is the location and the opportunity of the pelagic sealer. Here is his chance to lie at anchor over the shallow bed of Behring Sea, 50 and 100 miles distant from the Pribyloff group, where he has the best holding ground known to sailors, and where he can ride at any weather safely swinging to his cable and in no danger from a lee shore if it should slip. The immediate vicinity, however, of the Aleutian passes is dangerous in the extreme to him. There he encounters terrible tide-rips, swift currents, and furious gales formed through the entrances, with the very worst of rough, rocky, holding ground.

But up here, anywhere from 3 to 100 miles south of the Seal Islands, in Behring Sea, in that watery road of the returning fur-seal millions, he has a safe and fine location from which to shoot, to spear, and to net these fur-bearing amphibians, and where he can work the most complete ruin in a very short time.

His power for destruction is still further augmented by the fact that those seals which are most liable to meet his eye and aim are female fur seals, which, heavy with young, are here slowly nearing the land reluctant to haul out of the cool water until the day and hour arrives that limits the period of their gestation.

The pelagic sealer employs three agencies with which to secure his quarry, viz: He sends out Indians with canoes and spears from his vessel; he uses rifle and ball, shotguns, and buckshot; and last, but most deadly and destructive of all, he spreads the "gill-net" in favorable weather.

With gill-nets, under run by a fleet of sealers in Behring Sea, across these converging paths of the fur seal, anywhere from 3 to 100 miles southerly from the Seal Islands, I am extremely moderate in saying that such a fleet could and would utterly ruin the *fur-seal rookeries* of the Pribyloff Islands in less time than three or

four short seasons. If these men were unchecked every foot of that watery area of fur-seal travel in Behring Sea above indicated could and would be traversed by these deadly nets, and a seal would scarcely have one chance in ten to safely pass such a cordon in attempting to go and return from its breeding haunts.

Open these waters of Behring Sea to unchecked pelagic sealing, then a fleet of hundreds of vessels—steamers, ships, schooners, and whatnot—would immediately venture into them bent upon the most vigorous and indiscriminate slaughter of these animals. A few seasons then of the greediest rapine, then nothing left of those wonderful and valuable interests of the public which are now so handsomely embodied on the Seal Islands. Guarded and conserved as they are to-day they will last for an indefinite time to come, objects of the highest commercial value and good to the world, and subjects for the most fascinating biological study.

It is also well to note the fact that not an eligible acre of land is barred out from settlement or any other fit use by our people, and not a league of water is closed to any legitimate trade or commerce in all Alaska by this action of our Government in thus protecting the fur-bearing rookeries of the Pribyloff group.

Such are the facts in this connection. They are indisputable. No intelligent, unselfish man will advocate for a moment the policy of destruction in this instance—he never will if fully aware of the facts bearing on the question.

There are only two parties in this controversy. The party of destruction demands the full right to unchecked pelagic sealing in Behring Sea, while the party of preservation demands the suppression of that sealing. Comment is unnecessary.

Very truly, etc.,

HENRY W. ELLIOTT.

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## No. 9.

### *Mr. Phelps to Mr. Bayard.*

No. 690.] LEGATION OF THE UNITED STATES,
*London, February* 18, 1888. (Received February 28.)

SIR: I received yesterday your instruction No. 782, under date of February 7, relative to the Alaskan seal fisheries. I immediately addressed a note to Lord Salisbury, inclosing for his perusal one of the printed copies of the instruction, and requesting an appointment for an early interview on the subject.

I also sent a note to the Russian ambassador, and an interview with him is arranged for the 21st instant.

The whole matter will receive my immediate and thorough attention and I hope for a favorable result. Meanwhile I would ask your consideration of the manner in which you would propose to carry out the regulations of these fisheries that may be agreed upon by the countries interested. Would not legislation be necessary; and, if so, is there any hope of obtaining it on the part of Congress?

I have, etc.,

E. J. PHELPS.

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## No. 10.

### *Mr. Phelps to Mr. Bayard.*

[Extract.]

No. 692.] LEGATION OF THE UNITED STATES,
*London, February* 25, 1888. (Received March 6.)

SIR: Referring to your instructions, numbered 782, of February 7, 1888, in reference to the Alaska seal fisheries, and to my reply thereto, numbered 690, of February 18, I have the honor to inform you that I

have since had interviews on the subject with Lord Salisbury and with M. de Staal, the Russian ambassador.

Lord Salisbury assents to your proposition to establish, by mutual arrangement between the Governments interested, a close time for fur seals, between April 15 and November 1, and between 160° of longitude west and 170° of longitude east, in the Behring Sea.

He will also join the United States Government in any preventive measures it may be thought best to adopt, by orders issued to the naval vessels in that region of the respective Governments.

I have this morning telegraphed you for additional printed copies of instructions 782 for the use of Her Majesty's Government.

The Russian ambassador concurs, so far as his personal opinion is concerned, in the propriety of the proposed measures for the protection of the seals, and has promised to communicate at once with his Government in regard to it. I have furnished him with copies of instructions 782 for the use of his Government.

I have, etc.,

E. J. PHELPS.

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No. 11.

*Mr. Bayard to Mr. Phelps.*

No. 810.] DEPARTMENT OF STATE,
*Washington, March* 2, 1888.

SIR: I have to acknowledge the receipt of your No. 690, of the 18th ultimo, in relation to the Alaskan seal fisheries, and have pleasure in observing the promptitude with which the business has been conducted.

It is hoped that Lord Salisbury will give it favorable consideration, as there can be no doubt of the importance of preserving the seal fisheries in Behring Sea, and it is also desirable that this should be done by an arrangement between the Governments interested, without the United States being called upon to consider what special measures of its own the exceptional character of the property in question might require it to take in case of the refusal of foreign powers to give their cooperation.

Whether legislation would be necessary to enable the United States and Great Britain to carry out measures for the protection of the seals would depend much upon the character of the regulations; but it is probable that legislation would be required.

The manner of protecting the seals would depend upon the kind of arrangement which Great Britain would be willing to make with the United States for the policing of the seas and for the trial of British subjects violating the regulations which the two Governments may agree upon for such protection. As it appears to this Government, the commerce carried on in and about Behring Sea is so limited in variety and extent that the present efforts of this Government to protect the seals need not be complicated by considerations which are of great importance in highways of commerce and render the interference by the officers of one Government with the merchant vessels of another on the high seas inadmissible. But even in regard to those parts of the globe where commerce is extensively carried on, the United States and Great Britain have, for a common purpose, abated in a measure their

objection to such interference and agreed that it might be made by the naval vessels of either country.

Reference is made to the treaty concluded at Washington on the 7th of April, 1862, between the United States and Great Britain for the suppression of the slave trade, under which the joint policing of the seas by the naval vessels of the contracting parties was provided for. In this convention no limitation was imposed as to the part of the high seas of the world in which visitation and search of the merchant vessels of one of the contracting parties might be made by a naval vessel of the other party. In the present case, however, the range within which visitation and search would be required is so limited, and the commerce there carried on so insignificant, that it is scarcely thought necessary to refer to the slave-trade convention for a precedent, nor is it deemed necessary that the performance of police duty should be by the naval vessels of the contracting parties.

In regard to the trial of offenders for violation of the proposed regulations, provision might be made for such trial by handing over the alleged offender to the courts of his own country.

A precedent for such procedure is found in the treaty signed at the Hague on May 6, 1882, for regulating the police of the North Sea fisheries, a copy of which is inclosed.

I am, etc.,

T. F. BAYARD.

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No. 12.

*Mr. White to Mr. Bayard.*

[Telegram.]

LEGATION OF THE UNITED STATES,
*London, April* 7, 1888. (Received April 7.)

Mr. White stated that on the following Thursday he was to meet Lord Salisbury and M. de Staal to discuss the question of the protection of the seals. On April 7 he had had an interview on the subject with M. de Staal, from whom he learned that the Russian Government wished to include in the proposed arrangement that part of Behring Sea in which the Commander Islands are situated, and also the sea of Okhotsk. Mr. White supposed that the United States would not object to this.

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No. 13.

*Mr. White to Mr. Bayard.*

No. 720.] LEGATION OF THE UNITED STATES,
*London, April* 7, 1888. (Received April 17.)

SIR: Referring to your instructions numbered 782 of February 7 and 810 of March 2, respecting the protection of seals in Behring Sea, I have the honor to acquaint you that I received a private note from the Marquis of Salisbury this morning stating that at the request of the Russian embassador he had appointed a meeting at the foreign office next Wednesday, 11th instant, "to discuss the question of a close time for the seal fishery in Behring Sea," and expressing a hope that I would make

it convenient to be present, and I have replied that I shall be happy to attend.

Subsequently I saw M. de Staal, the Russian embassador, at his request. He referred to the interviews which Mr. Phelps had had with him, of which I was, of course, cognizant, and stated that his full instructions on the subject would not reach London until to-night or tomorrow, and that he was about to leave town until next Wednesday, but meanwhile he could say that his Government would like to have the regulations which might be agreed upon for Behring Sea extended to that portion of the latter in which the Commander Islands are situated, and also to the sea of Okhotsk (in which Robben Island is situated).

As both these places are outside the limit laid down in your instruction numbered 782 (170° of longitude east from Greenwich), I have thought it best to send you the telegram, of which I inclose a copy herewith.*

I am, etc.,

HENRY WHITE.

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No. 14.

*Mr. Bayard to Mr. White.*

[Telegram.]

DEPARTMENT OF STATE,
*Washington, April* 9, 1888.

Mr. Bayard stated, in reply to Mr. White's telegram of April 7, that this Government did not object to the extension of the arrangement for the protection of the fur-seal fisheries to the whole of Behring Sea.

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No. 15.

*Mr. Bayard to Mr. White.*

[Extract.]

No. 849.] DEPARTMENT OF STATE,
*Washington, April* 18, 1888.

SIR: I have to acknowledge your No. 720 of the 7th instant, inclosing copy of your telegram of the same date in which you informed the Department that Lord Salisbury, the Russian ambassador, and yourself were to meet on Thursday, the 12th instant, to discuss the protection of seals, and that the Russian Government desired to include in the proposed arrangement that portion of Behring Sea in which Commander Islands are situated, and also the sea of Okhotsk.

On the 9th instant I sent you a telegram stating that this Government did not object to the extension of the arrangement for the protection of the fur-seal fisheries to the whole of Behring Sea.

Owing to an error in transmission of your telegram, Okhotsk Sea did not appear to be included in the suggestion, but there is no objection to such inclusion.

I am, etc.,

T. F. BAYARD.

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* For inclosure see *supra* No. 12.

No. 16.

*Mr. White to Mr. Bayard.*

No. 725.] LEGATION OF THE UNITED STATES,
*London, April* 20, 1888. (Received April 30.)

SIR: Referring to your instructions Nos. 685, 782, and 810, to Mr. Phelps' dispatches Nos. 618 and 690, and to subsequent correspondence, I have the honor to acquaint you that I called at the foreign office on the 16th instant for the purpose of discussing with the Marquis of Salisbury and M. de Staal, the Russian ambassador, the details of the proposed conventional arrangement for the protection of seals in Behring Sea.

M. de Staal expressed a desire, on behalf of his Government, to include in the area to be protected by the convention the sea of Okhotsk, or at least that portion of it in which Robben Island is situated, there being, he said, in that region large numbers of seals, whose destruction is threatened in the same way as those in Behring Sea.

He also urged that measures be taken by the insertion of a clause in the proposed convention or otherwise, for prohibiting the importation, by merchant vessels, into the seal-protected area, for sale therein, of alcoholic drinks, fire-arms, gunpowder, and dynamite.

Lord Salisbury expressed no opinion with regard to the latter proposal, but, with a view to meeting the Russian Government's wishes respecting the waters surrounding Robben Island, he suggested that, besides the whole of Behring Sea, those portions of the Sea of Okhotsk and of the Pacific Ocean north of north latitude 47° should be included in the proposed arrangement.

His lordship intimated furthermore that the period proposed by the United States for a close time, April 15 to November 1, might interfere with the trade longer than absolutely necessary for the protection of the seals, and he suggested October 1, instead of a month later, as the termination of the period of seal protection.

I referred to the communications already made by Mr. Phelps on this subject to Lord Salisbury, and said that I should be obliged to refer to you the proposals which had just been made, before expressing an opinion with regard to them.

I have accordingly the honor to ask for instructions in reference to the same.

Meanwhile the Marquis of Salisbury promised to have prepared a draught convention for submission to the Russian ambassador and to myself. I shall lose no time in forwarding to you a copy of this document when received.

I am, etc., HENRY WHITE.

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No. 17.

*Mr. Bayard to Mr. White.*

No. 864.] DEPARTMENT OF STATE,
*Washington, May* 1, 1888.

SIR: Your dispatch No. 725 of the 20th ultimo stating the result of your interview with Lord Salisbury and the Russian ambassador relative to the protection of seals in Behring Sea, and requesting further instructions as to their proposals, has been received.

As you have already been instructed, the Department does not object to the inclusion of the sea of Okhotsk, or so much of it as may be necessary, in the arrangement for the protection of the seals. Nor is it thought absolutely necessary to insist on the extension of the close season till the 1st of November.

Only such a period is desired as may be requisite for the end in view. But in order that success may be assured in the efforts of the various governments interested in the protection of the seals, it seems advisable to take the 15th of October instead of the 1st as the date of the close season, although, as I am now advised, the 1st of November would be safer.

The suggestion made by Lord Salisbury that it may be necessary to bring other governments than the United States, Great Britain, and Russia into the arrangement has already been met by the action of the Department, as I have heretofore informed you. At the same time the invitation was sent to the British Government to negotiate a convention for seal protection in Behring Sea, a like invitation was extended to various other powers, which have without exception returned a favorable response.

In order, therefore, that the plan may be carried out, the convention proposed between the United States, Great Britain, and Russia should contain a clause providing for the subsequent adhesion of other powers.

In regard to the suggestion of the Russian ambassador that the convention be made to cover the question of the sale of fire-arms and liquor to the natives on the coasts in question, I am compelled to think, while in favor of restricting or prohibiting such sale, that it would be advisable to regulate the subject separately from the protection of the seals. It is possible that some governments might readily assent to the latter object, while indisposed to accede to the former, and in that way lead to the defeat of the end first proposed by this Government.

I am, etc.,

T. F. BAYARD.

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No. 18.

*Mr. White to Mr. Bayard.*

No. 767.] LEGATION OF THE UNITED STATES,
*London, June* 6, 1888. (Received June 16.)

SIR: With reference to your instructions numbered 864, of May 1, and to previous correspondence, I have the honor to inclose herewith, for your information, a copy of Sir James Fergusson's reply to a question asked by Mr. Gourley in the House of Commons on the 4th instant, from which you will observe that the Canadian Government have cautioned persons engaged in sealing expeditions in Behring Sea against using force in the event of their being interfered with by our officers.

I have etc.,

HENRY WHITE.

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[Inclosure in No. 767.]

SEAL FISHERY IN BEHRING SEA.

[Extract from The Times, Tuesday, June 5, 1888.]

In answer to Mr. Gourley, Sir J. Fergusson said: I am informed that the government of the Dominion have cautioned persons engaged in sealing expeditions in the

Behring Sea from using force in the event of their being interfered with by the United States officers. The questions involved are the subject of consideration by the Governments of Her Majesty and the United States and it would not be convenient or usual to present the correspondence before it is concluded.

In answer to a further question from Mr. Gourley, Sir J. Fergusson said that the correspondence between Her Majesty's Government and the Government of the United States was being conducted diplomatically and in a friendly manner, and he deprecated any discussion upon the matter at present.

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## No. 19.

### *Mr. White to Mr. Bayard.*

No. 786.] LEGATION OF THE UNITED STATES,
*London, June* 20, 1888. (Received June 30.)

SIR: I have the honor to inform you that I availed myself of an early opportunity to acquaint the Marquis of Salisbury and the Russian ambassador of the receipt of your instructions numbered 864, of May 3, and shortly afterwards (May 16) his excellency and I called together at the foreign office for the purpose of discussing with his lordship the terms of the proposed convention for the protection of seals in Behring Sea. Unfortunately Lord Salisbury had just received a communication from the Canadian government stating that a memorandum on the subject would shortly be forwarded to London, and expressing a hope that pending the arrival of that document no further steps would be taken in the matter by Her Majesty's Government. Under these circumstances Lord Salisbury felt bound to await the Canadian memorandum before proceeding to draught the convention.

I have inquired several times whether this communication from Canada had been received, but it has not yet come to hand. I was informed to-day by Lord Salisbury that an urgent telegram had been sent to Canada a week ago with respect to the delay in its expedition, and that a reply had been received by the secretary of state for the colonies stating that the matter would be taken up immediately. I hope, therefore, that shortly after Mr. Phelps' return this Government will be in a condition to agree upon the terms of the proposed convention.

I have the honor to inclose for your information the copy of a question asked by Mr. Gourley and answered by Sir James Fergusson in behalf of the British Government with respect to the seal fishing in Behring Sea.

I have, etc.,

HENRY WHITE.

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[Inclosure in No. 786.]

SEAL FISHING IN BEHRING SEA.

[Extract from The Times, Tuesday, June 19, 1888.]

Mr. Gourley asked the under-secretary of state for foreign affairs whether it was true that the United States Government had officially announced the departure of the war ship *Dolphin* and three other armed vessels to the Behring Sea, with instructions to seize British or other vessels engaged in seal fishing in those waters; whether Her Majesty's Government had sent a war ship to warn masters of British sealing vessels of the consequences of infringing the Alaskan laws; and whether any of the vessels seized for alleged illegal fishing in 1886 and 1887 had been, as promised, released.

Sir J. FERGUSSON. In so far as Her Majesty's Government are aware no such announcement has been made by the United States Government, nor has any British ship of war been ordered to Behring Sea. Orders have been given by the United States Government that the three British vessels seized in 1886, with their tackle, apparel, and furniture, should be restored to their owners. The vessels in question were the *Onward*, *Caroline*, and *Thornton*. As regards the seizures in 1887, we have not heard that any of them have been released, but proceedings in connection with all the seizures are before the American law courts.

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## No. 20.

### *Mr. Bayard to Mr. Phelps.*

No. 948.] DEPARTMENT OF STATE,
*Washington, August* 9, 1888.

SIR: I inclose herewith, for your information, a copy of a recent dispatch* from Mr. Hubbard, our minister at Tokio, relative to the recent action of the Japanese Government in requesting United States consuls in Japan to refrain from shipping Japanese subjects on otter-hunting vessels; and giving an account of the attack at Copper Island on the British schooner *Nemo*.

I am, etc.,

T. F. BAYARD.

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## No. 21.

### *Mr. Rives to Mr. Phelps.*†

No. 982.] DEPARTMENT OF STATE,
*Washington, October* 23, 1888.

SIR: I inclose herewith, for your information, a copy of a dispatch to this Department from Mr. Stevens, our consul at Victoria, British Columbia, relative to the fur-seal industry, giving an account of the business for the season which has just closed.

I am, etc.,

G. L. RIVES,
*Acting Secretary.*

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[Inclosure with No. 982.]

*Mr. Stevens to Mr. Rives.*

No. 374.] CONSULATE OF THE UNITED STATES OF AMERICA,
*Victoria, British Columbia, October* 8, 1888. (Received October 19.)

SIR: Within the last week all but one of the Victoria sealing fleet of fifteen vessels have arrived in port, having completed the season's cruise.

No unusual incident is mentioned save the seizure of the *Araunah*, belonging to Hall & Goepel, of this city, off Copper Island, July 1 last, by the *Alexander II*, belonging to the Alaska Commercial Company and floating the Russian flag, as stated by the public press in reporting the seizure. Messrs. Hall & Goepel have given me Captain Sieward's statement, viz:

"That the *Araunah* was seized on the 1st of July, 6 or 8 miles from the shore of the southern extremity of Copper Island, by the Alaska Commercial Company's

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* See *infra*, No. 30.

† Identic instructions were sent to U. S. minister to Russia.

steamer *Alexander II*, floating a Russian flag (not the national flag of Russia, but a Russian flag of some kind—possibly a revenue flag). The Russian Inspector-General of the islands was on board the steamer at the time of seizure. The ground of seizure given was that Russia claims the sovereignty of the Behring Sea, and the inspector stated that he would have seized the vessel had she been even 100 miles further south. The *Araunah* was first taken to Vladivostock and then to Petropaulovski, where the Indian hunters were paid for their canoes, and at which port the *Araunah* now lies. Thence the crew were shipped by the Russian Government in a vessel to Nagasaki, where the captain noted protest. The British Board of Trade there forwarded them to Yokohama, to be taken by the steam-ship *Batavia* to Vancouver.

Apropos of this, on the 12th July last, a boat's crew from the *Nemo*, of Yokohama, was fired into from the shore off Atton Island by the Aleuts, the captain killed and two men wounded. This press print was attested as true by Mr. Gray, of Yokohama, yesterday.

The total catch of the Victorian sealers Mr. Lubbe gives at 14,897 seal and 152 otter skins; for the last season (1887) 30,200, including about 12,000 seized. Only five American sealers have reported here this season. They have had the same luck as the Victorians. There has been an unusual period of heavy weather and fog at the north. Seal skins are worth $6.25; otter $105.

I am, etc.,

ROBT. J. STEVENS,
*Consul.*

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## No. 22.

### *The whales in Hudson Bay.*

An Ottawa letter to the Boston Herald says:

The Dominion Government is now considering the possibility of acting on the suggestion of Commander Gordon, in charge of the fishery protective service, and who has made several voyages to Hudson Bay to close the whale fisheries of Hudson Bay and Straits for a time, in view of the rapid depletion of this industry which has become apparent. The industry has almost entirely been carried on by New England whalers, and he suggests that, if they be allowed to continue, a heavy license for the privilege should be exacted. The New England whalers, it is reported, attack their prey with harpoons, explosive bombs, and lances, fired from large swivel guns carried on steam-launches, instead of the old-fashioned weapons thrown by hand from rowboats.

In giving his evidence, when this subject was brought up before a committee of the Senate this spring, Dr. Bell, of the Government geological staff, said that against such appliances as are now used by the New England whalers the whale has no chance to escape. It makes the capture much more certain, as the whalers can destroy life at once with the bomb and secure the animal. Thirty years ago the larger whales were quite common in the Gulf of St. Lawrence, but were driven north by the large fleet of New England vessels engaged in the trade. They are now rarely seen off the Newfoundland coast, or even in Hudson Straits, where at one time they abounded in great numbers. The use of fire-arms, which led to the complete extirpation of the buffalo, is now at work in the whale fishery, and, according to Dr. Bell's evidence, it is only a question of time when some of the species will become totally extinct. On being asked to suggest some means by which the extermination of the whales might be prevented, Dr. Bell said:

"I think charging a high license to permit whaling—either charge it on the number of whales killed, the quantity of oil obtained, or so much a vessel—would decrease it. The Russian Government, I understand, claim jurisdiction over the whale fisheries of the White Sea, which is quite open as compared with Hudson Bay, Boothia Bay, and many of our large bays. They charge something like £300 a season for a permit for a vessel to kill whales, and if the whalers do not pay it they are driven out of those waters. Now, if the Russian Government can claim control over the whale fisheries of the White Sea, surely we can control Hudson Bay and Boothia Bay; and if the Americans can capture our sealers in Behring Sea, surely we can capture American whalers found in Hudson Bay and Boothia Bay."

## JAPAN.

### No. 23.

*Mr. Hubbard to Mr. Bayard.*

No. 387.] UNITED STATES LEGATION,
*Tokio, Japan, September* 28, 1887. (Received October 24.)

SIR: I have the honor to inform the Department of State that I have submitted to the Japanese minister for foreign affairs the substance of your instruction No. 153, in relation to taking steps for the better protection of the fur-seal fisheries in Behring Sea by international co-operation, waiving all exceptional measures and exceptional marine jurisdiction that might be properly claimed for that end by the United States. In invoking the early and earnest consideration of the propositions of your instruction for the reasons given, and which are alike of practical commercial interest to Japan as well as to the other friendly powers designated as having been invited to enter into a similar arrangement with our Government, I have requested Count Ito to name at his pleasure some time in the future when we may discuss informally the reasons for and the terms and conditions of such arrangement for the protection of the seal-fur fisheries in Behring Sea as will safe guard that large marine interest against the lawless and indiscriminate slaughter of this animal, contributing so much to the wealth and general welfare of mankind. Due report will be made to the Department of State as the negotiations progress, which I hope and expect will be concluded favorably to all concerned.

I have, etc.,

RICHARD B. HUBBARD.

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### No. 24.

*Mr. Hubbard to Mr. Bayard.*

[Telegram.]

LEGATION OF THE UNITED STATES,
*Tokio, September* 29, 1887. (Received September 29.)

Mr. Hubbard acknowledges the receipt of Mr. Bayard's instruction No. 153, of August 19, 1887, and requests, at the instance of the Japanese Government, copies of the Treasury regulations and contracts concerning the seal fisheries, and also a more definite statement as to the nature of the protection which it is desired to extend to those fisheries.

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### No. 25.

*Mr. Hubbard to Mr. Bayard.*

[Extract.]

No. 388.] UNITED STATES LEGATION,
*Tokio, Japan, September* 29, 1887. (Received October 24.)

SIR: Referring to your instruction No. 153 I have already had the honor to inform the Department of State that I would seek a personal

official conference with the minister for foreign affairs on the subject of the international protection of the fur-seal fisheries in Behring Sea.

The Japanese Government is anxious to enter into an arrangement or convention with the United States Government, invoking similar arrangement or convention with our Government for the protection of the fur-seal fisheries in the waters of their northern islands.

I expressly called attention to the waiver for this purpose, as expressed in your instruction No. 153, and in my dispatch No. 387, of any legal rights under former conventions; that my Government now desired to invite this co-operative protection of friendly powers of their fur-seal fisheries from wanton destruction without reference to said former conventions. Nevertheless, the Japanese Government requested as an especial favor that I would cable the Department of State, in order to save time, for certain documents mentioned in the subjoined cablegram, and for such specifications of said desired arrangement or convention as will be satisfactory and meet the wishes of my Government in that regard, and which might be reciprocally invoked for the protection of their own fur-seal fisheries.

I have, etc.,

RICHARD B. HUBBARD.

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No. 26.

*Mr. Bayard to Mr. Hubbard.*

No. 156.] DEPARTMENT OF STATE,
*Washington, September* 30, 1887.

SIR: The Department is glad to infer from your telegram of the 29th instant that the Government of Japan has favorably received the proposition of the United States to negotiate for the protection of the seal fisheries in Behring Sea.

A memorandum on the subject is now being prepared in reference to my suggestions and will be transmitted as soon as it is completed.

I am, etc.,

T. F. BAYARD.

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No. 27.

*Mr. Hubbard to Mr. Bayard.*

No. 393.] UNITED STATES LEGATION,
*Tokio, Japan, October* 10, 1887. (Received November 2.)

SIR: I have the honor herewith to inclose for the information of the Department of State, copies, respectively, of my note to Count Ito, and his reply thereto, relating to the fur-seal fisheries in Behring Sea.

I am requested to call the attention of my Government respectfully and especially to the proposed reciprocal protection of the sea-otter, and to enlarge the protected zone so as to embrace the known habitat of that animal.

I took occasion to say unofficially to Count Ito that I had no hesitation in giving him the hopeful assurance that my Government would co-operate with his excellency's Government in the proposal to include sea-otter as well as fur seal in any reasonable arrangement which would prevent unregulated and indiscriminate slaughter of this valuable ani-

mal in the waters of Behring Sea as well as on the coasts of Japan and in their conterminous waters. I shall have the honor to await, in deference to Count Ito's expressed request, your instructions in response to the respectful proposition of the Japanese Government before entering upon any formal negotiations on this subject. On receipt of this dispatch by the Department of State, I have the honor to suggest that if the reply to my cablegram of the 29th ultimo has been mailed to this legation by the Department, that in that end a brief telegram signifying your willingness to include the sea-otter in the said negotiations would advance the negotiations and gratify this Government as well, who manifests a deep interest in securing an early arrangement by our respective governments for the better protection of the fur-seal and sea-otter fisheries in American and Japanese waters.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure 1 in No. 393.]

*Mr. Hubbard to Count Ito Hirobumi.*

UNITED STATES LEGATION,
*Tokio, October* 6, 1887.

SIR: I have the honor herewith to forward to your excellency, and to beg your early and favorable consideration of, a copy of an instruction which I have had the honor to receive from the Department of State of my Government.

The general proposition respectfully submitted in this instruction by my Government, as well as the obvious and convincing reasons there set forth in favor of its adoption by the friendly powers named therein, will, I am sure, receive from your excellency's Government the same earnest consideration as they have received from the United States.

As already indicated unofficially to the foreign office, I shall, in furtherance of the wishes and instructions of my Government, be gratified and obliged if your excellency will formally appoint any future time and place when and where I may have the honor to confer and discuss with your excellency, or any other representative of His Imperial Majesty's Government, the subject of an arrangement or special convention between the United States of America and the Empire of Japan having reference to the better protection of the fur-seal fisheries in Behring Sea.

I avail, etc.,

RICHARD B. HUBBARD.

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[Inclosure 2 in No. 393.—Translation.]

*Count Ito Hirobumi to Mr. Hubbard.*

No. 8584]. DEPARTMENT FOR FOREIGN AFFAIRS,
*Tokio, October* 8, 1887.

SIR: I have the honor to acknowledge the receipt of your excellenty's note of the 6th instant, in which you are pleased to inclose the copy of a communication from the honorable the Secretary of State in reference to the seal fisheries in Behring Sea, and, in pursuance of instructions contained in that dispatch, invite His Imperial Majesty's Government to enter into an arrangement with the Government of the United States having for its object the protection of fur seals in Behring Sea from indiscriminate destruction and consequent extermination.

The unregulated and indiscriminate slaughter of the sea-otter as well as the fur seal on the coasts of Japan and in their conterminous waters is a subject which has for many years engaged the serious attention of the Imperial Government.

The experience of His Imperial Majesty's Government justifies the belief that the end sought to be obtained can be best secured by means of a co-operative international action, and they therefore cordially approve of the suggestion of the honorable the Secretary of State.

His Imperial Majesty's Government would be willing to enter into an arrangement for the purpose indicated, but they would wish, for the reasons assigned by Mr. Bayard in favor of the protection of the fur seal in Behring Sea, to extend the principle

of protection to the sea-otter as well as the fur seal, and to enlarge the protected zone so as to embrace the known habitat of that animal.

I beg that you will bring this proposal to the attention of the Government of the United States, and I would suggest that this be done in advance of any negotiations on the subject.

I avail myself, etc.

COUNT ITO HIROBUMI.

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No. 28.

*Mr. Bayard to Mr. Hubbard.*

No. 171.] DEPARTMENT OF STATE,
*Washington, November* 21, 1887.

SIR: I have to acknowledge the receipt of your dispatches Nos. 388 and 393, dated, respectively, September 29 and October 10, and in reply to express the satisfaction of this Department at the favorable response of the Japanese Government to negotiate for the protection of the seal fisheries in Behring Sea.

The Department hopes to be able, at an early day, to instruct you further on the subject. At present, owing doubtless to the shortness of the time, few replies have been received from foreign governments to the circular invitation of the United States in this regard. And it is thought desirable to await for a time further responses, which might affect the course of the negotiations.

I am, etc.,

T. F. BAYARD.

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No. 29.

*Mr. Hubbard to Mr. Bayard.*

No. 483.] UNITED STATES LEGATION,
*Tokio, Japan, June* 23, 1888. (Received July 16.)

SIR: Respectfully referring to the correspondence between the Department of State and this legation, looking to the conclusion of a convention between Japan and the United States and some other powers for the protection of the fur-seal fisheries in Behring Sea, and the protection of the sea-otter, as subsequently suggested by Japan, I have the honor to inform the Department that instruction No. 171, of November 21, 1887, which has heretofore been acknowledged, is the last that has been received by me from the Department on this subject.

I desire to inform the Department that the Japanese foreign office has in a friendly spirit of inquiry asked if I could furnish information as to when my Government would be ready (as Japan had been ready for some time past) to resume the consideration of the proposed convention.

I have, in response to this inquiry, forwarded to the foreign office a copy of your said instruction No. 171, dated November 21, 1887, with the accompanying note, dated June 20, transmitting the same. The Japanese minister for foreign affairs has been recently advised by the Russian minister to Japan that the United States Government and those of Russia and Great Britain had discussed, at London, the matter of a similar convention for the protection of the fur-seal fisheries and sea-otter in Behring Sea. He also communicated the fact that the Government at

St. Petersburg desired to conclude with Japan a convention for the mutual protection of the seal and otter within their own seas and contiguous waters.

This fact has been the immediate cause of the inquiry submitted to me, to which the inclosure herewith is in response.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure in No. 483.]

*Mr. Hubbard to Count Okuma.*

No. 284.] UNITED STATES LEGATION,
*Tokio, June* 20, 1888.

SIR: Referring to my note to his exellency Count Ito, dated October 6, 1887, and his reply thereto dated November 8, 1887, concerning a proposed arrangement which the United States invited Japan to enter into with the United States and certain other powers, for the protection of the fur seals in Behring Sea from indiscriminate destruction and consequent extermination, I have now the honor to inclose an instruction* from my Government in response to my dispatch to the honorable the Secretary of State, informing him of Japan's willingness to enter such an arrangement.

It will be observed by your excellency that my Government is awaiting the replies of some other foreign governments to the invitation of the United States to enter into such a convention.

I have not communicated with your excellency's department since my note of the 6th of October, on account of awaiting further instructions from my Government in the premises, to which the instruction herewith inclosed especially refers. The substance of the inclosed instruction has not been heretofore communicated to your excellency's Government, hoping that I might, as indicated, ere now have been furnished with final instructions to conclude a convention between our respective governments, embracing all the points of discussion on which a common and friendly concurrence and understanding had been reached and of which my Government was advised in my dispatches to which the inclosed instruction is in response.

I avail myself, etc.,

RICHARD B. HUBBARD.

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## No. 30.

*Mr. Hubbard to Mr. Bayard.*

No. 491.] UNITED STATES LEGATION,
*Tokio, Japan, July* 13, 1888. (Received August 8.)

SIR: I have the honor to inclose herewith a copy of a note from the Japanese minister for foreign affairs dated July 7, in which I am requested to instruct the United States consuls in Japan not to ship Japanese subjects on board American vessels engaged or about to engage in otter or seal hunting.

The reasons for such a request are set forth in the minister's note.

In compliance with Count Okuma's request, I have instructed the United States consul-general at Kanagawa, and through him the other consular representatives of the United States in Japan, to refrain from shipping any Japanese subjects on any American otter or seal hunting vessels.

I have the honor to inclose a copy of my communication to the United States consul-general on the subject, and hope that my action in the premises will meet the approval of the Department of State.

In order that the Department may more fully understand the imme-

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* See *supra*, No. 28.

diate causes which have led the Japanese Government to take the course indicated in regard to the shipment of Japanese subjects on otter and seal hunting vessels, I beg to submit a brief account of the attack on the British schooner *Nemo*, to which Count Okuma refers:

The *Nemo* is a schooner of 150 tons, owned and commanded by one Snow, a British resident of Yokohama, and was manned by Japanese sailors. The schooner is what is known as an "otter and seal hunter."

On the 27th of May last, while the schooner was en route to the hunting grounds, it was, according to the commander's statement, becalmed off Copper Island (Russian territory). Early on the morning of May 27, while the schooner was still becalmed, the commander put off in a boat with a crew of six Japanese sailors, accompanied or followed by two other boats of Japanese sailors. The commander of the *Nemo* was the only foreigner in the boats. When about 200 yards from shore, and after the commander of the *Nemo* had discharged his rifle at one or more otters, his boat was fired upon by an unknown number of men concealed behind the rocks or a bluff of the shore, and using, as the commander of the *Nemo* supposes, Winchester rifles.

The firing was kept up with great rapidity, and all of the men in the boat, including the commander, being wounded, it was with great difficulty that the boat was gotten out of reach of the firing, the commander and one sailor being the only occupants of the boat who were able to propel it, and being both wounded, the craft moved very slowly.

When the commander's boat got out of range of the firing (the second boat had one man wounded, but the third had not approached within range of the firing), it was ascertained that one of the Japanese had been killed outright, and two others afterwards died on the *Nemo* from the wounds then received.

The commander was wounded in the hand and in the thigh, but he and the other Japanese who were wounded have, I understand, about recovered.

The schooner was brought to Yokohama, where an inquiry into the affair was held by the British consul, who found that the attack was unprovoked.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure 1 in No. 491.—Translation.]

*Count Okuma to Mr. Hubbard.*

DEPARTMENT FOR FOREIGN AFFAIRS,
*Tokio, the 9th day, the 7th month, the 21st year of Meiji.*

SIR: The recent attack at Copper Island upon the British schooner *Nemo* (with the circumstances and results of which you are doubtless familiar), coupled with the fact that the unlicensed taking of otter and seal within the jurisdiction of His Imperial Majesty is prohibited by law, has impressed upon the Imperial Government the necessity of adopting more effectual measures on the one hand to protect His Imperial Japanese Majesty's subjects from the consequences of acts for which as seamen they could hardly be held responsible, and on the other to put a stop to an unlawful occupation.

With these objects in view, I have the honor to request that you will instruct the consuls of your country in Japan to refrain, until otherwise advised, from shipping Japanese subjects on board any American vessels engaged or about to engage in otter or seal hunting.

I avail,, etc.,

COUNT SHIGENOBU OKUMA.

[Inclosure 2 in No. 491.]

*Mr. Hubbard to Mr. Greathouse.*

UNITED STATES LEGATION,
*Tokio, July* 12, 1888.

SIR: I have to inclose for your information and observance and guidance a copy of a note from the Japanese minister for foreign affairs, in which as the diplomatic representative of the United States, I am requested to instruct consular representatives of the United States resident in the Empire to refrain, until further notice, from shipping Japanese subjects on board any American vessel engaged or about to engage in otter or seal hunting.

This action, as the minister for foreign affairs states, has been occasioned by the "necessity of adopting more effectual measures on the one hand to protect His Imperial Japanese Majesty's subjects from the consequences of acts for which as seamen they could hardly be held responsible, and on the hand to put a stop to an unlawful occupation."

In view of the fact that the United States Government recognizes the exclusive jurisdiction of all governments over their own subjects, and in view of the extraterritorial jurisdiction in the open ports of Japan, by which Japan has no means of enforcing the observance of its laws by masters of American vessels, I deemed it proper, under the comity of nations—a comity which the United States has shown to Japan in causing the observance of Japanese quarantine regulations and in other instances—to instruct you to observe the request of the Japanese Government in this particular; and you will therefore refrain, until further notice, from shipping Japanese subjects on board any American vessel engaged or about to engage in otter or seal hunting.

You are further instructed to forward a copy of this communication, together with a copy of the note from the minister for foreign affairs, to each of the United States consuls at Osaka and Hiogo and Nagasaki, with instructions that they will observe the same.

I am, etc.,

RICHARD B. HUBBARD.

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## No. 31.

*Mr. Hubbard to Mr. Bayard.*

No. 492.] UNITED STATES LEGATION,
*Tokio, Japan, July* 13, 1888. (Received August 8.)

SIR: Referring to the correspondence which has taken place between the Department of State and this legation concerning a proposed convention between the United States and Japan and some other powers, looking to the protection of the fur-seal fisheries in Behring Sea, I have the honor to inclose a copy of a note, dated July 9, from the Japanese minister of foreign affairs, inquiring as to the nature of the consultation now being conducted at London on this subject, with a view of instructing the Japanese minister at London to take part in said consultation provided it has assumed the nature of an international conference in which the views of the several powers interested may be interchanged.

The note from Count Okuma and my reply to the same, also herewith inclosed, fully explain themselves, and are forwarded to the Department with the view of eliciting such reply as may be desired advisable in the premises.

There is no doubt that the *Nemo* affair, to which I had the honor to refer in my dispatch No. 491 of this date, has had the effect of increasing Japan's interest in the proposed convention and her desire to see it concluded at an early day.

I have, etc.,

RICHARD B. HUBBARD.

[Inclosure 1 in No. 492—Translation.]

*Count Okuma to Mr. Hubbard.*

DEPARTMENT FOR FOREIGN AFFAIRS,
*Tokio, the 7th day, the 7th month, the 21st year of Meiji.*

SIR: With reference to the proposal of your Government to enter into a proper arrangement for the purpose of preventing by international co-operation indiscriminate and unregulated destruction of fur seals in the Behring Sea, the views of the Imperial Government having been communicated to you, your Government intimated that they would approach the subject again upon receipt of responses from the powers consulted, and consequently the Imperial Government have been awaiting further communication from your Government.

In the mean time it has recently been reported to the Imperial Government that the United States minister at London is holding consultation with Her British Majesty's principal secretary for foreign affairs and the diplomatic representatives of some other power or powers interested in respect to certain matters bearing upon the subject.

The Imperial Government are not aware of the nature of the question under discussion. If, however, the negotiation has actually assumed the character of an international convention, in which the views of the several powers interested may be formally interchanged, the Imperial Government would desire to instruct their representative at London to take part in such negotiation.

I therefore beg leave to request that you will be so good as to ascertain the truth of the report and to communicate to me the result of your inquiry.

I avail myself, etc.,

COUNT SHIGENOBU OKUMA.

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[Inclosure 2 in No. 492.]

*Mr. Hubbard to Count Okuma.*

UNITED STATES LEGATION,
*Tokio, July* 12, 1888.

SIR: I have the honor to acknowledge the receipt of your excellency's note No. 25, of the 7th instant, in which, referring to the subject of the proposed arrangement between the Governments of the United States and Japan and some other powers, looking to the protection of the fur-seal fisheries in Behring Sea, your excellency informs me that it has been reported to the Imperial Government that the United States minister at London is holding consultation with Her British Majesty's principal secretary for foreign affairs and the diplomatic representatives of some other powers interested, in respect to certain matters bearing upon the subject. Your excellency further states that if the negotiations have assumed the character of an internationa conference, in which the views of the several powers interested may be formally inl terchanged, the Imperial Government would desire to instruct their representative at London to take part in such negotiations; and you request me to ascertain the truth of the report referred to, and to communicate the result of my inquiry to your department.

In reply I have the honor to say to your excellency that by the mail leaving for the United States on or about June 20 I had the honor, as suggested by the verbal and informal inquiry of the foreign office, to address a dispatch to the honorable the Sec retary of State of my Government, requesting to be advised of the present status of the negotiations of the proposed convention; and in pursuance of the subject I will by the next mail leaving for the United States forward a copy of your excellency's note, with the request that my Government will furnish me with full information respecting the progress of the negotiations.

In this connection I beg to say to your excellency that I have been informed informally and unofficially by the representatives at Tokio of one of the powers interested in the said negotiations, that he was in receipt of information to the effect that the consultation now being conducted at London is of a purely preliminary character.

I am fully persuaded that the consultation to which your excellency refers is of the same nature as has already taken place between the United States minister at Tokio and the Japanese foreign office; and I beg to repeat to your excellency what I have already had the honor to assure your Department on previous occasions, that a final decision will not be reached in this matter of the proposed convention until the Imperial Government has been fully advised and has had ample opportunity to express its views in the premises.

I avail, etc.,

RICHARD B. HUBBARD.

No. 32.

*Mr. Bayard to Mr. Hubbard.*

No. 223.] DEPARTMENT OF STATE,
*Washington, July* 18, 1888.

SIR: I have received your No. 483 of the 23d ultimo, saying that the Japanese minister for foreign affairs had informally inquired of you lately concerning the proposed convention between the United States and Japan, looking to the protection of fur seals in Behring Sea, which formed the subject of my instruction No. 171 of November 21, 1887.

Negotiation with Japan in reference to the protection of the seals in Behring Sea has been delayed by the unexpected protraction of the negotiation with Great Britain and Russia. It is thought desirable that the arrangement between these countries should be permitted to assume a definite and settled form before other agreements are formulated. It is hoped that the matter will soon be in such shape as to permit the entrance upon formal negotiations with Japan.

In the mean time, however, the question might be informally discussed with the Japanese Government, with a view to ascertain just what is desired of the United States in regard to the protection of the sea-otter.

I am, etc.,

T. F. BAYARD.

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No. 33.

*Mr. Bayard to Mr. Hubbard.*

[Confidential.]

No. 232.] DEPARTMENT OF STATE,
*Washington, August* 9, 1888.

SIR: I have to acknowledge the receipt of your No. 492, of the 13th ultimo, in which you transmit a copy of a note from Count Okuma, minister for foreign affairs of Japan, of the 7th ultimo, in which he states the desire of his Government to instruct its representative in London to take part in the negotiations there pending between the Government of the United States and that of Great Britain, for a convention for the protection of seals in Behring Sea, provided the negotiations have reached a stage which would admit of such participation.

In reply you promised his excellency that you would request your Government to furnish you with full information respecting the progress of the negotiations.

No change is known to have taken place in the state of the negotiations at London since the Department last wrote you on the subject. Four months ago strong hopes were entertained here that the convention would soon be concluded. But the Department is now informed that the views of Her Britannic Majesty's minister for foreign affairs have met with obstruction from Canada, where vessels are yearly fitted out for the purpose of preying upon seal life by the use of fire-arms and other destructive weapons.

It is not perceived, therefore, how the participation of Japan in the negotiations at London could promote their successful conclusion.

There is not known to be any difference of opinion between this Government and that of Her Britannic Majesty as to the necessity and propriety of the international arrangement, now under consideration, for the protection of the seals in Behring Sea.

The convention which Japan will seek to make on the same subject will, as you have indicated, have to be shaped in some respects so as to meet the wishes of Japan in regard to the protection of her interests in the sea-otter. What this Government deems necessary for the preservation of the seals in Behring Sea is entirely to prohibit the slaughter of them with fire-arms, nets, and other destructive implements, at a distance from the coasts. The Department would be glad to learn the views of the Japanese Government concerning the measures necessary for the protection of its interests in the otter, and to be furnished with information respecting their territorial and pecuniary extent.

I am, etc.,

T. F. BAYARD.

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## RUSSIA.

### No. 34.

*Mr. Wurts to Mr. Bayard.*

No. 139.] LEGATION OF THE UNITED STATES,
*St. Petersburg, September* 3, 1887. (Received September 17.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 99, of the 19th of last month, relating to the measures to be taken for the better protection of the seal fisheries in Behring Sea, and to inform you that, in obedience to it, I have communicated the invitation of the Government of the United States to that of Russia, to enter into such an arrangement as will put a check to the indiscriminate destruction, by the citizens of either country, of the seals in those waters.

I am, etc.,

GEORGE W. WURTS.

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### No. 35.

*Mr. Lothrop to Mr. Bayard.*

No. 151.] LEGATION OF THE UNITED STATES,
*St. Petersburg, December* 8, 1887. (Received December 27.)

SIR: I have the honor to transmit herewith the translation of a note from the foreign office, received at the legation yesterday, on the proposition of the United States for an international agreement touching the capture of seals in Behring Sea. The earnestness felt here in the matter is plainly indicated by the language of the note, which speaks of unrestrained seal hunting as a thing which not only threatens the well-being but even the existence of the people of the extreme northeast coast.

This language represents a view which I have heard here in conversation, of course not officially, and which is substantially as follows:

The seal fishery on our Behring coasts is the only resource our people

there have; it furnishes them all the necessaries of life; without it they perish. Now international law concedes to every people exclusive jurisdiction over a zone along its coasts sufficient for its protection; and the doctrine of the equal rights of all nations, on the high seas, rests on the idea that it is consistent with the common welfare and not destructive of any essential rights of the inhabitants of the neighboring coasts. Such common rights, under public law, rest on general consent, and it would be absurd to affirm that such consent had been given, where its necessary result would be the absolute destruction of one or more of the parties. Hence, the rule can not be applied blindly to an unforeseen case, and these alleged common rights must rightfully be limited to cases where they may be exercised consistently with the welfare of all. Behring Sea partakes largely of the character of an inclosed sea; two great nations own and control all its inclosing shores. It possesses a peculiar fishery, which, with reference to its preservation, can only be legitimately pursued on land, and even there only under strict regulations. To allow its unrestrained pursuit in the open waters of the sea is not only to doom it to annihilation, but, by necessary consequence, to destroy all its coast inhabitants. If this result is conceded, it follows that the doctrine of common rights can have no application to such a case.

I have thought it might not be uninteresting to give this as a view which has found expression here, and, if found necessary, I think it not improbable that Russia would feel that she was driven to act on it.

I am, etc.,

GEO. V. N. LOTHROP.

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[Inclosure in No. 151.—Translation.]

*M. de Giers to Mr. Lothrop.*

MINISTRY OF FOREIGN AFFAIRS,
*Asiatic Department, November* 25, 1887.

MR. MINISTER: Mr. Wurts, under date of August 22 [September 2], was good enough to communicate to me the views of the Government of the United States of America upon the subject of the desirableness of an understanding, among the Governments concerned, for the regulation of the taking (*la chasse*) of the fur seal (*loutres*) in the Behring Sea, in order that an end might be put to those inconsiderate practices of extermination which threaten to dry up, at their source, an important branch of international commerce.

We concur entirely in the views of the Government of the United States. Like it, we also have been for a long time considering what means could be taken to remedy a state of things which is prejudicial not only to commerce and to revenue, but which will not long delay to work disastrous results, not only to the well-being but even to the existence of our people in the extreme northeast. The establishment of a reasonable rule, and of a lawful system in the use (*l'exploitation*) of the resources, which furnish their only industry, is for those people of vital importance.

The pressing interest which the imperial Government has been thus called to consider had already suggested to it the idea of an international agreement, by which this interest might find its most efficient protection. It is by this way that the different questions involved can be best resolved, and among which there exists, in our opinion, a close connection.

The proposition of an accord emanating from the Government of the United States, and which we take pleasure in considering as a step towards that general solution, must, of course, but meet the sincere sympathies of the imperial Government, and its active support, and this I pray you to make known to the Cabinet at Washington.

Please receive, etc.,

GIERS.

No. 36.

*Mr. Lothrop to Mr. Bayard.*

No. 161.] LEGATION OF THE UNITED STATES,
*St. Petersburg, February* 22, 1888. (Received March 12.)

SIR: Your dispatch, No. 110, relative to the protection of fur-bearing seals in the Behring Sea, has just reached me, and I have lost no time in making known to the imperial Government your wishes respecting the co-operation of the Russian ambassador in London with Mr. Phelps on this subject.

Very truly, etc.,

GEO. V. N. LOTHROP.

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No. 37.

*Mr. Lothrop to Mr. Bayard.*

No. 164.] LEGATION OF THE UNITED STATES,
*St. Petersburg, March* 12, 1888. (Received April 2.)

SIR: Immediately upon the receipt of your dispatch, No. 110, I communicated to Mr. de Giers the suggestions therein contained. In reply he now informs me that the imperial Government, acting thereon, has instructed Mr. de Staal, its ambassador in London, at once to put himself into communication with Mr. Phelps, and to do his best to promote the common object of the two Governments. I am also requested to make this action known to you.

Very truly, etc.,

GEO. V. N. LOTHROP.

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## SWEDEN AND NORWAY.

No. 38.

*Mr. Magee to Mr. Bayard.*

No. 118.] LEGATION OF THE UNITED STATES,
*Stockholm, March* 20, 1888. (Received April 9.)

SIR: I am in receipt this p. m. of the response to my note (written under your instruction of date September 17, 1887), inviting the Government of the United Kingdoms to join in an arrangement whereby an end would be put to the indiscriminate killing of seals in the Behring Sea.

The royal Government having no interest in seal fisheries, His Majesty thinks there is no need to take part in any treaty or arrangement in reference thereto on the part of the United Kingdoms. He however expresses the desire that a mutually beneficial accord may be arrived at between the interested powers, and that the same may be maintained with a reservation that powers not at present interested may join in such an arrangement in the future if they desire.

At present neither Sweden nor Norway engages in seal fishing in Behring Sea or adjacent waters.

I have, etc.,

RUFUS MAGEE.

# SUPPLEMENT E.

## PAPERS RELATING TO DIFFERENTIAL RATES OF TONNAGE DUES.

*Message from the President of the United States inclosing a report from the Secretary of State in reference to the international questions arising from the imposition of differential rates of tonnage dues.*

*To the Senate and House of Representatives:*

I transmit herewith, for the consideration of Congress and such legislation in respect of the matters therein presented as may seem necessary and proper, a report of the Secretary of State, with accompanying explanatory correspondence, in reference to the international questions arising from the imposition of differential rates of tonnage dues upon vessels entering ports of the United States from foreign countries, under the provisions of the fourteenth section of the act of June 26, 1884, and the later amendatory provisions of the act of June 19, 1886, as set forth in said report.

GROVER CLEVELAND.

EXECUTIVE MANSION,
*Washington, January* 14, 1889.

*To the President:*

On the 26th of June, 1884, the President approved "An act to remove certain burdens on the American merchant marine and encourage the American foreign-carrying trade, and for other purposes." This statute contained thirty sections, relating to inspection of vessels, shipping and discharge of seamen, the liabilities of ship-owners, and sundry other kindred topics. Section 14 alone related to tonnage dues, but it provided a new system for levying them which radically differed from that formerly in force.

Section 14 provided that in lieu of the uniform tax of 30 cents a ton per annum previously imposed by law, a duty of 3 cents a ton, not to exceed in the aggregate 15 cents a ton in any one year, should be imposed at each entry on all vessels which should be entered in any port of the United States from any foreign port or place in North America,

Central America, the West Indies, the Bahamas, the Bermudas, the Hawaiian Islands, or Newfoundland; and that a duty of 6 cents a ton, not to exceed the old rate of 30 cents a ton per annum, should be imposed at each entry on all vessels entered in the United States from any other foreign ports or places.

It was, however, provided that the President should suspend the collection of so much of the 3–15 cents duty on vessels entered from any port in Canada, Newfoundland, the Bahamas, the Bermudas, the West Indies, Mexico, and Central America down to and including Aspinwall and Panama, as might be in excess of the tonnage and lighthouse dues, or other equivalent tax or taxes, imposed on American vessels by the Government of the foreign country in which such port was situated.

In course of time claims were presented by the Governments of Belgium, Denmark, Germany, Italy, Portugal, and Sweden and Norway for the 3–15 cent rate. These claims, excepting in the case of Sweden and Norway, were based upon provisions in treaties of those nations with the United States, by which the contracting parties mutually agree not to grant favors to other nations in respect to commerce and navigation which shall not become common to the other party, either with or without expression of equivalent concessions, as the case may be.

In the case of Sweden and Norway there was a further treaty stipulation, which reads as follows:

> The two high contracting parties engage not to impose upon the navigation between their respective territories, in the vessels of either, any tonnage or other duties, of any kind or denomination, which shall be higher or other than those which shall be imposed on every other navigation, except that which they have reserved to themselves, respectively, by the sixth article of the present treaty. (Article 8, treaty of July 4, 1827.)

Article 6 referred to coastwise navigation, which the contracting parties reserved to themselves, respectively.

The question of the conflict of the provisions of section 14 of the act of June 26, 1884, with our conventional obligations having been referred to the Department of Justice, the Attorney-General, on the 19th of September, 1885, gave the following opinion:

> The discrimination as to tonnage duty in favor of vessels sailing from the regions mentioned in the act, and entered in our ports, is, I think, purely geographical in character, inuring to the advantage of any vessel of any power that may choose to fetch and carry between this country and any port embraced by the fourteenth section of the act. I see no warrant, therefore, to claim that there is anything in the "most favored-nation" clause of the treaty between this country and the powers mentioned that entitles them to have the privileges of the fourteenth section extended to their vessels sailing to this country from ports outside of the limitation of the act.

This opinion was duly made known to the Governments concerned.

In order to illustrate the views of those Governments upon the matter, a passage may be quoted from a note of the German minister at this capital, of the 16th of February, 1886, as follows:

> This rejection (of the claim of Germany) is based on the ground that that exemption, which is granted to all vessels of all powers sailing between the countries in question (which enjoy the 3–15 cent rate under the act of 1884) and the United States, is purely geographical in its character, and can not, therefore, be claimed by other States under the most favored-nation clause.
>
> I am instructed, and I have the honor most respectfully to reply to this, that such a line of argument is a most unusual one, and is calculated to render the most favored-nation clause wholly illusory. On the same ground it would be quite possible to justify, for instance, a privilege granted exclusively to the South American States, then one granted also to certain of the nearer European nations, so that finally, under

certain circumstances, always on the pretext that the measure was one of a purely geographical character, Germany alone, among all the nations that maintain commercial relations with America, notwithstanding the most favored-nation right granted to that country by treaty, might be excluded from the benefit of the act.

It can not be doubted, it is true, that on grounds of a purely local character, certain treaty stipulations between two powers, or certain advantages autonomically granted, may be claimed of third states not upon the ground of a most favored-nation clause. Among these are included facilities in reciprocal trade on the border, between states whose territories adjoin each other. It is, however, not to be doubted that the international practice is that such facilities, not coming within the scope of a most favored-nation clause, are not admissible save within very restricted zones. * * * This law (of 1884) grants definite advantages to entire countries, among others to those situated at a great distance from the United States; these advantages are, beyond a doubt, equivalent to facilities granted to the trade and navigation of those countries, even if they do, under certain circumstances, inure to the benefit of individual vessels of foreign nations. It scarcely need be insisted upon that these advantages favor the entire commerce of the countries specially designated in the act, since they are now able to ship their goods to the United States on terms that have been artificially rendered more favorable than those on which other countries, not thus favored, are able to ship theirs.

The treaty existing between Prussia and the United States expressly stipulates that "If either party shall hereafter grant to any other nation any particular favor in *navigation or commerce*, it shall immediately become common to the other party, freely where it is freely granted to such other nation, or on yielding the same compensation when the grant is conditional." Such a compensation, so far as the reduction of the tonnage tax to 3 cents is concerned, has not been stipulated for by the United States in the aforesaid shipping act. Germany is, therefore, *ipso facto*, entitled to the reduction of the tax in favor of vessels sailing from Germany to the United States, especially since, according to the constitution of the Empire, no tonnage tax is collected in Germany from foreign vessels, that is to say, no tonnage tax of the character of American tonnage taxes in the sense of section 8, paragraph 1, Article 1 of the American Constitution, viz, those designed to pay the debts of the Government, and to pay the expenses of the common defense and the general welfare.

In the situation thus described matters remained until the 19th of June, 1886, when an act was approved entitled "An act to abolish certain fees for official services to American vessels, and to amend laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes." By the eleventh section of this act the fourteenth section of the act of June 26, 1884, was amended. To the area in respect of which the 3–15 cent rate under the latter act applied, was added, "the coast of South America bordering on the Caribbean Sea." The other amendments were as follows:

As above stated, the act of 1884 provided that the President should suspend the collection of so much of the 3–15 cent duty on vessels entered in the United States from any port in Canada, Newfoundland, the Bahamas, the Bermudas, the West Indies, Mexico, and Central America, down to and including Aspinwall and Panama, as might be in excess of the tonnage and light-house dues, or other equivalent tax or taxes, imposed on American vessels by the Government of the foreign country in which such port was situated. In lieu of this, section 11 of the act of 1886 contains the following provisions:

*Provided*, That the President of the United States shall suspend the collection of so much of the duty herein imposed on vessels entered from any foreign port, as may be in excess of the tonnage and light-house dues, or other equivalent tax or taxes, imposed in said port on American vessels by the Government of the foreign country in which such port is situated, and shall, upon the passage of this act, and from time to time thereafter, as often as it may become necessary by reason of changes in the laws of the foreign countries above mentioned, indicate by proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage duty, if any, to be collected under such suspension: *Provided further*, That such proclamation shall exclude from the benefits of the suspension herein authorized the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues, or duties imposed on the vessels of the country in which such port is situated, or on the cargoes of such vessels.

The obvious purpose of the subproviso in the above-quoted extract from section 11 was to exclude from the benefit of the proclamation authorized by the main proviso the vessels of those countries which discriminated in their ports in favor of their own vessels and against vessels of the United States, which is the ordinary form of discrimination, and in the absence of which no other is likely to exist.

By the unfortunate employment, however, of the term "such port" in the subproviso, the grammatical antecedent of which term had to be sought in the main proviso, the effect of the subproviso seemed to be to exclude from the benefits of the proclamation only those countries in whose ports a discrimination was practiced against the United States in favor of the country of the port to which the proclamation applied. For example, suppose a proclamation was issued under the act of 1886, for the abolition of tonnage dues on vessels entering the ports of the United States from Amsterdam. By the terms of the act, any vessel, of whatever nationality, entering the ports of the United States from Amsterdam would have been entitled to exemption from dues, unless barred by the existence of a discrimination against vessels of the United States in the ports of the country to which the vessel in question belonged. In determining whether such discrimination existed, the inquiry would naturally be whether the Government of that country discriminates in its ports against vessels of the United States as compared with its own. Thus, if the vessel from Amsterdam were British, the inquiry would be whether a discrimination existed in British ports against vessels of the United States as compared with British vessels. But, upon a strict grammatical construction of the act of 1886, it might have been argued that the inquiry should not be whether in the case supposed such a discrimination was practiced in favor of British vessels, but merely whether vessels of the United States received in British ports the same treatment as the vessels of the Netherlands, the latter being the country in which the port of Amsterdam is situated.

That such was not the intention of Congress, and that a different and more usual form of discrimination was aimed at, namely, that in favor of national as against foreign vessels, seems to be established by the adoption by Congress, when the matter was brought to its attention, of the act of April 4, 1888, the first section of which amends the eleventh section of the act of 1886 by striking out of the subproviso the words "such port," and substituting therefor words which describe the discrimination which the undersigned supposes to have been intended by the original act.

The undersigned calls attention to this feature of the matter, at the present stage of the discussion, not because it had any bearing upon the treaty claims now under consideration, but in order to avoid the repetition of the terms of the acts of 1884 and 1886, which would be necessary if the subject were left to be mentioned hereafter. In the formulation of proclamations under the act of 1886 the feature just described presented a difficulty which illustrates the complicated character of the subject with which the act attempted to deal and the practical embarrassments which have been developed in its administration.

On the 1st of August, 1886, the German minister at this capital, by direction of his Government, addressed the undersigned on the subject of the act of 1886, as follows:

The new law is evidently based upon the idea of reciprocity. If this idea had been consistently carried out, no objection could be made to it, and the imperial Government would have no further ground of complaint. This, however, is not the case, inasmuch as the new law grants special privileges, as did the old, to vessels from the

above-mentioned ports, declaring that they, without any compensation on their part, shall pay but 3 cents per ton, even though a duty in excess of that amount is paid by American vessels in the ports concerned. * * *

The imperial Government has from the outset protested against this one-sided privilege, which is in violation of the treaty stipulations of Germany with the United States. Since this privilege is not only abolished by the new law, but is confirmed and still further extended, the original attitude assumed by the German Government towards the old law has been in no wise changed by the new act. * * * As long as vessels from the ports of North and Central America pay but one-half of the tonnage duty that is levied upon vessels from German ports, without being required to furnish proof that less than 6 cents is exacted from American vessels in their ports, *the imperial Government will be obliged to maintain its claim for similar usage, viz, to exemption from furnishing such proof.*

So far as her treaty claim is concerned, the position of Germany has not been changed.

After the passage of the act of 1886 the controversy also continued with Sweden and Norway, and on the 9th of March, 1887, the minister of Sweden and Norway at this capital transmitted to this Department copies of correspondence exchanged between the United States and his country shortly after the conclusion of the treaty of 1827, and relative to the construction of the eighth article thereof, which seemed to the undersigned to require of this Government the recognition of Sweden and Norway's claim for the 3–15 cent rate. At the time referred to there existed in Norway a schedule of tonnage duties under which different charges were made on vessels: (1) from any place outside of Europe except the Mediterranean; (2) from the Mediterranean; (3) from any European port not on the Mediterranean.

Under article 8 of the treaty of 1827, then lately ratified, this Government claimed the lowest rate of duty, which was that on vessels in the last category. The Swedish and Norwegian Government denied our claim on substantially the same grounds as those on which this Government has recently declined to recognize a similar claim of Sweden and Norway. But the Government of the United States, through Mr. Clay, then Secretary of State, insisted upon its claim, and the Government of Sweden and Norway conceded it, refunding at the same time certain duties which had been charged on tonnage of the United States in excess of the lowest rate under the Norwegian law claimed by the Government. The correspondence on this subject accompanied the report of the undersigned, submitting diplomatic correspondence for the year 1887, which was transmitted to Congress on the 26th of June last.

Believing that this concession of our claim by the Government of Sweden and Norway created an honorable obligation on our part similarly to concede to that Government the benefit of the construction of the treaty which we had claimed and enjoyed, the undersigned conferred with the Secretary of the Treasury with a view to make that benefit immediately effective. The letter of the undersigned to the Secretary of the Treasury will be found as inclosure 37.

On the 20th of June, 1887, the Secretary of the Treasury replied, communicating a report of the Commissioner of Navigation to the effect that no relief could be afforded by the Bureau of Navigation; and under the law creating that Bureau, the Commissioner holds his decision to be final and not subject to review. (See inclosure 38.) The law provides that "on all questions relating to the collection of tonnage tax, and to the refunding of such tax when collected erroneously or illegally," his decision shall be "final."

The undersigned does not desire in the present instance to be understood as dissenting from the Commissioner's view that no relief could

be afforded in respect of the claim of Sweden and Norway, under the strict letter of the act of 1886. But it may be expedient to suggest that the act of July 5, 1884, in relation to the Bureau of Navigation, might properly be so amended as to give the Secretary of State a voice in the decision of treaty and cognate international questions.

The undersigned, in view of what has been above stated, has the honor to suggest that a recommendation be made to Congress to amend the act of 1886, so as to give to Sweden and Norway at once the benefit of the 3–15 cent rate; and that all tonnage dues charged in excess of that rate on Swedish and Norwegian vessels entering the ports of the United States from ports of the United Kingdom since the date at which the 3–15 cent rate went into effect under the act of 1884 be refunded.

RECIPROCAL ABOLITION OF TONNAGE DUES UNDER THE ACT OF 1886.

Up to the present point, the discussion has related exclusively to the 14th section of the act of June 24, 1884, and the amendatory section of the act of June 19, 1886. But section 12 of the latter act contained the following provisions:

> That the President be, and hereby is, directed to cause the governments of foreign countries which at any of their ports impose on American vessels a tonnage tax or light-house dues, or other equivalent tax or taxes, or any other fees, charges, or dues, to be informed of the provisions of the preceding section, and invited to co-operate with the Government of the United States in abolishing all light-house dues, tonnage taxes, or other equivalent tax or taxes on, and also all other fees for official services to the vessels of the respective nations employed in the trade between the ports of such foreign country and the ports of the United States.

Correspondence between the United States and the claimant Governments in respect to the acts of 1884 and 1886 having reached a point where the positions of the parties were fully defined, the undersigned, in July, 1887, addressed to our proper representatives in foreign countries a circular of instructions to extend to foreign Governments a general invitation for the reciprocal abolition of tonnage and equivalent dues. (Inclosure No. 41.)

Prior to that step, and on the 8th of November, 1886, the minister of the Netherlands at this capital had given the requisite assurances as to the absence of any tonnage, light, or equivalent charges on vessels of the United States in the ports of the Netherlands in Europe and in certain named ports of the Dutch East Indies, and had requested the suspension of the collection of such dues, under section 11 of the act of 1886, on vessels entering the United States from the ports in question. This request having been duly considered, the President, on the 22d of April, 1887, issued his proclamation for the suspension of dues accordingly. (Inclosure 70.)

The invitation under the twelfth section of the act of 1886 was extended to the Netherlands as well as to other countries, but the scope of the proclamation of April 22, 1887, has not since been enlarged.

On the 24th of January, 1888, the German minister at this capital, referring to the invitation above mentioned, gave the necessary assurances as to the absence in the ports of Germany of any charges of tonnage or light-house dues, or any equivalent tax or taxes whatever, as referred to in the act of 1886, on American vessels entering those ports. Accordingly the President, on the 26th of January, 1888, issued his proclamation to suspend the collection of such dues on vessels entered in the ports of the United States from any of the ports of the German Empire. (Inclosure 54.)

In the note in which the German minister gave the assurance referred

to, he stated that the same absence of the charges in question had been declared in his note of the 15th of February, 1886, in which, prior to the passage of the act of 1886, he had presented the demand of his Government for the 3–15 cent rate under the act of 1884; and he expressed the hope that, in view of this fact, the Government would deem it proper to refund the dues charged on German ships entering American ports from ports of the German Empire since the date of the approval of the act of 1886.

To this suggestion the undersigned was unable to respond, the matter being one for the consideration of Congress. But the request assuredly deserves equitable consideration. In this regard it is to be observed that the government of the Netherlands stands in the same position as that of Germany, since it appears by the note of the Dutch minister of the 8th of November, 1886, that the Netherlands legislation abolishing dues on vessels entering the ports thereof bears date June 3, 1875. (Inclosure 69.)

The proclamations respecting Germany and the Netherlands are the only ones so far issued for the abolition of dues under the act of 1886. It thus appears that in no case has that act been the means of securing the abolition of dues on American vessels in foreign ports. In respect of all countries in which such dues were charged when the act of 1886 was approved, an unfavorable response on one ground or another, has been made to our invitation; and Germany is the only country in respect of which the amendatory features of the act of 1886 have resulted in relief from future treaty claims.

But a question of a different description has arisen in the administration of the German and Dutch proclamations. Those proclamations provide, in accordance with the law, for the abolition of dues on vessels entering the ports of the United States from ports of Germany or of the Netherlands, as the case may be.

If, however, a vessel clears from a port in Germany, or in the Netherlands for a port in the United States, and on her way to the latter calls at an intermediate port, the question has arisen whether she is under the law entitled to exemption from dues when entering in the United States. This question has arisen in a number of cases, of which that of the steamers of the North German Lloyds Line is an example. (Inclosure 54.) These steamers run regularly from Bremen to New York by way of Southampton, touching at the port last named, while such passengers, mails, and merchandise as there may be are transferred from a connecting vessel. The voyage of the steamer is denoted on the manifests from Bremen as being from that port to New York via Southampton.

It has been claimed that these steamers should be exempt from dues in the United States as coming from a German port, it being argued that their described and principal voyage is from Bremen to New York, and that the stoppage off Southampton is not such as to deprive the run of its character of a voyage from a German port to a port in the United States, within the meaning of the act of 1886 and the proclamation. But it has been held by the Commissioner of Navigation that the voyage can not be so regarded, and that the vessels must pay dues as coming from Southampton, a British port. Similar rulings have been made in respect to other vessels of different nationality.

Another instance of complication is that of a vessel starting from, we will say, a 6–30 cent port, and calling, on her way to the United States, at a 3–15 cent port and a free port. Other combinations will readily suggest themselves and need not be stated. But in each case the vessel

is required in effect to pay the highest rate, without reference to the amount of cargo obtained at the various ports from which she comes. Thus a penalty may practically be imposed in many cases on indirect voyages.

It is conceived that in many instances the main purpose of the act may be defeated by these rulings, but it must be admitted that the law contains no provision to meet such cases, and that there would be great difficulty in the executive branch of the Government undertaking to decide that any particular measure of deflection from a direct voyage should or should not determine its character. This appears to be a proper subject for the consideration of Congress.

But the undersigned has the honor to submit whether it would not at least be practicable in the case of vessels coming from two or more ports as to which different rates of tonnage dues are imposed in the United States, to apportion such dues on the basis of the relative portions of cargo brought from such ports.

In regard to the questions raised by the claims of various governments, under their treaties with the United States, for the 3–15 cent rate of tonnage duty, the undersigned begs to suggest that the present condition of matters would be greatly simplified, if not by the abolition, at least by the equalization of tonnage duties on the basis of a uniform charge of 3–15 cents; and this without reference to any question of treaty construction, except in the case of Sweden and Norway, in respect to which a specific recommendation, for reasons stated, has already been made. Such an equalization of duties would extend the same relief to commerce with all parts of the world as has already, by the acts of 1884 and 1886, been offered to commercial intercourse within certain geographical areas. This change in the law having been effected, the invitation for the reciprocal abolition of dues would still remain as an offer of yet more liberal treatment on the most advantageous basis to this country. In this way the interests of our commerce would be subserved, and the Government would enjoy the additional advantage of having so adjusted its laws as to be free from future demands based upon its conventional agreements, and from the necessity of claiming for them a less liberal construction than the other high contracting parties are willing to admit.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,
*Washington, January* 14, 1889.

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INCLOSURES.

PART I.

No. 1. Mr. Tree to Mr. Bayard. No. 26. December 13, 1885.
No. 2. Mr. Porter to Mr. Tree. No. 20. January 2, 1886.
No. 3. Mr. Bayard to Mr. Tree. No. 72. January 5, 1887.
No. 4. Mr. Tree to Mr. Bayard. No. 196. January 24, 1887.
No. 5. Mr. Bounder to Mr. Bayard. June 19, 1885.
No. 6. Mr. Bayard to Mr. Bounder. November 7, 1885.
No. 7. Mr. Lovenörn to Mr. Bayard. August 27, 1885.
No. 8. Mr. Bayard to Mr. Lovenörn. November 7, 1885.
No. 9. Mr. Bayard to Mr. Pendleton. No. 181. January 5, 1887.
No. 10. Mr. Alvensleben to Mr. Bayard. August 3, 1885.
No. 11. Mr. Bayard to Mr. Alvensleben. November 7, 1885.
No. 12. Count Leyden to Mr. Bayard. November 17, 1885.

No. 13. Mr. Alvensleben to Mr. Bayard. February 16, 1886.
No. 14. Mr. Bayard to Mr. Alvensleben. March 4, 1886.
No. 15. Mr. Alvensleben to Mr. Bayard. August 1, 1886.
No. 16. Baron Fava to Mr. Bayard. February 16, 1886.
No. 17. Mr. Bayard to Baron Fava. March 12, 1886.
No. 18. Mr. Bayard to Viscount Nogueiras. May 21, 1885.
No. 19. Same to same. November 7, 1885.
No. 20. Mr. Porter to Mr. Magee. No. 49. August 5, 1887.
No. 21. Mr. Magee to Mr. Bayard. No. 101. November 7, 1887.
No. 22. Mr. Bayard to Mr. Magee. No. 55. November 28, 1887.
No. 23. Mr. Magee to Mr. Bayard. No. 106. December 14, 1887.
No. 24. Same to same. No. 133. July 17, 1888.
No. 25. Mr. Reuterskiöld to Mr. Bayard. June 17, 1885.
No. 26. Same to same. October 4, 1885.
No. 27. Mr. Bayard to Mr. Reuterskiöld. November 7, 1885.
No. 28. Mr. Reuterskiöld to Mr. Bayard. November 11, 1885.
No. 29. Same to same. March 8, 1886.
No. 30. Mr. Bayard to Mr. Reuterskiöld. March 29, 1886.
No. 31. Mr. Reuterskiöld to Mr. Bayard. March 31, 1886.
No. 32. Same to same. June 30, 1886.
No. 33. Same to same. November 15, 1886.
No. 34. Mr. Bayard to Mr. Reuterskiöld. December 20, 1886.
No. 35. Same to same. December 20, 1886.
No. 36. Mr. Reuterskiöld to Mr. Bayard. March 9, 1887.
No. 37. Mr. Bayard to Mr. Fairchild. June 2, 1887.
No. 38. Mr. Fairchild to Mr. Bayard. June 20, 1887.
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## PART I.—TREATY CLAIMS RELATIVE TO TONNAGE DUES.

### BELGIUM.

### No. 1.

*Mr. Tree to Mr. Bayard.*

No. 26.] LEGATION OF THE UNITED STATES,
*Brussels, December* 13, 1885. (Received December 29.)

SIR: Referring to previous correspondence on the subject of your No. 3, I have the honor to inform you that yesterday, in the course of conversation with Baron Lambermont, of the foreign office, I called his attention to the favored-nation clause of a treaty, and asked him what interpretation his Government had placed upon such clause in cases where there had been or might be contention as to reserved privileges. He replied that the clause not always being the same, but differing in language in different treaties, it was difficult to answer the general question; and I then called his attention more specifically to a clause of that character containing language similar to that used in the treaty of 1875, between the United States and Belgium, and after saying that he was not sufficiently familiar with the matter to be able to answer the inquiry then, he promised to look into it and report to me at an early date the result of his investigation.

Of course I did not in any way discuss with the baron the question involved in the inquiry.

I have not been as yet, able, from any other quarter, I regret to say, to obtain any information on the construction heretofore placed on the clause in question in other foreign treaties of Belguim, and it is somewhat difficult to find the starting-point, but I am pursuing the subject, and hope yet to get knowledge of some cases in which a similar point has been raised and an interpretation given thereof by the Government here.

At the same time I venture to observe that I have examined, in the volume of the United States Statutes at Large, which has just come to hand, section 14 of the act of June 26, 1884, to which you have specially called my attention in your No. 3, and confess that it is not very apparent to me that "any favor, privilege, or immunity to any other state" has been granted under that section which is not common alike to the subjects of Belgium. If I understand its language, it certainly does not withhold from Belgium any right which is therein granted to vessels of any other nation coming from any of the ports named therein. The concession would seem to be made, not to a state, but to ports within given boundaries; and any vessel, under whatever flag, entering a port of the United States from any of those ports is entitled to the benefits of the act—a Belgian vessel equally with one of the United States or of any other nation. If this view is correct, it is difficult to perceive how, under this section, Belgium can justly claim any rights under the favored-nation clause for vessels coming from Belgian ports.

I venture to give the impression made on my mind by reading the section, in order that I may know if I have properly understood the language and intent of the act.

I have, etc.,

LAMBERT TREE.

No. 2.

*Mr. Porter to Mr. Tree.*

No. 20.] DEPARTMENT OF STATE,
*Washington, January* 2, 1886.

SIR: Your dispatch No. 26, of the 13th ultimo, giving an account of your interview with the Belgian minister of foreign affairs concerning the construction placed by his Government upon the favored-nation clauses of certain treaties, has been read with interest.

Your views as to the construction of section 14 of the shipping act of June 26, 1884, agree with those expressed by the President in his annual message to Congress, in which he says that—

> This Government holds that the privileges granted by the act are purely geographical, inuring to any vessel of any foreign power that may choose to engage in traffic between this country and any port within the defined zone, and no warrant exists under the most favored-nation clause for the extension of the privileges in question to vessels sailing to this country from ports outside the limitation of the act.

It may be observed, moreover, that the Belgian contention, if sound, would demand for Belgian vessels coming from Belgian ports a favorable treatment which could not under our statute be accorded to American vessels making the same voyage, for a treaty stipulation with Belgium could not give this Government the power to exempt its own vessels in its own ports from the tonnage duties imposed upon them by law.

I am, sir, etc.,

JAS. D. PORTER.

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No. 3.

*Mr. Bayard to Mr. Tree.**

No. 72.] DEPARTMENT OF STATE,
*Washington, January* 5, 1887.

SIR: Referring to previous correspondence on the subject of the claim of the Government of Belgium under the most favored-nation clause of its treaties with the United States to participate in the benefits created in respect of tonnage dues by the fourteenth section of the shipping act of June 26, 1884, I now transmit, for your personal and confidential information, copies of correspondence† recently had with the Swedish and Norwegian minister at Washington on the subject.

The claim of Belgium seems to be in suspense, if not to have been abandoned. As soon as it can be done this Government proposes to revise the matter, by making the offer contemplated by section 11 of the amendatory shipping act of June 19, 1886, a copy of which is herewith inclosed.

Meanwhile, should any indication come to your knowledge of a disposition on the part of the Government of Belgium to renew its demand, either on the former basis or on the modified footing provided by the later amendatory act of 1886, you will fully advise the Department.

I am, sir, etc.,

T. F. BAYARD.

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* Sent also, *mutatis mutandis*, to the minister of the United States to Denmark.
† For this correspondence, see *infra*, Nos. 27 to 35.

No. 4.

*Mr. Tree to Mr. Bayard.*

No. 196.] LEGATION OF THE UNITED STATES,
*Brussels, January* 24, 1887. (Received February 10.)

SIR: I have the honor to inform you that I have duly received and carefully read your instruction No. 72, of the 5th instant, with inclosures, on the subject of the claim of the Government of Belgium, under the most favored-nation clause of its treaties with the United States, to participate in the benefits created in respect of tonnage dues by the fourteenth section of the shipping act of June 26, 1884.

I shall not fail, in obedience to your instructions, to fully advise you in the event of any indication coming to my knowledge of a disposition on the part of the Government of Belgium to renew its demand, either on the former basis or on the modified footing provided by the later amendatory act of 1886.

I have, etc.,

LAMBERT TREE.

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*CORRESPONDENCE WITH THE LEGATION OF BELGIUM AT WASHINGTON.*

No. 5.

*Mr. de Bounder to Mr. Bayard.*

[Translation.]

LEGATION OF BELGIUM,
*New York, June* 19, 1885. (Received June 22.)

SIR: The first part of section 14 of the act of Congress of June 26, 1884, "to remove certain burdens on the merchant marine," has modified the rate of and the manner of collecting the tonnage duty. That duty is now 6 cents per ton for vessels coming from ports other than those of Central and North America, from Mexico, Colombia, and from the British possessions, and 3 cents for vessels coming from ports situated in these latter countries, while it is not to exceed, in the former case, 30 cents per ton per annum for the same vessel and 15 cents in the latter case.

According to Article XII of the treaty of 1875 between the United States of America and Belgium, any favor or immunity, any privilege in matters relating to customs or navigation, that shall be granted by the United States Government to another State shall be *immediately* granted to the subjects of Belgium, gratuitously if the favor is gratuitous, and on the same compensation or its equivalent being given if the favor is conditional.

Now this reduction to 3 cents for vessels coming from a given zone is categorical and absolute; it constitutes a general favor, granted gratuitously and unconditionally, to certain specified countries; it consequently should have been made to apply to vessels coming from Belgium as soon as the act of June 26, 1884, went into operation.

Nevertheless, Belgian owners of steamers plying between Belgium and the United States of America complain that the duty of 6 cents per ton is still required on their vessels.

It will be sufficient, I am sure, for me to call your excellency's attention to this fact to induce you to request your honorable colleague of the Treasury Department to issue orders to the end that vessels coming from Belgium may be assimilated, as regards the payment of tonnage dues, to those coming from Central and North America.

By the second paragraph of the fourteenth section of the aforesaid act of June 26, 1884, the President is authorized to reduce and even to suspend the collection of the tonnage duty in the case of vessels coming from ports situated within the zone indicated, but this suspension or reduction is made subject to certain conditions; and proclamations issued by the President on the 31st of January and the 7th of August last removed all duties on vessels coming from certain ports situated within the zone in question, because no tonnage or light-house dues were colected in those ports. I avail myself of this occasion to beg your excellency to be pleased to inform me what documents my Government will have to produce in order to secure, *the case arising*, the same advantage for vessels coming from Belgium.

Thanking your excellency in advance for your mediation and good offices, I have, etc.,

TH'RE. DE BOUNDER DE MELSBROECK.

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No. 6.

*Mr. Bayard to Mr. de Bounder.*

DEPARTMENT OF STATE,
*Washington, November* 7, 1885.

SIR: I had the honor to receive in due season your note of June 19 last touching the application of the provisions of the fourteenth section of the shipping act approved June 26, 1884, in respect of the collection of tonnage tax to vessels of Belgium coming from ports of that country to ports of the United States under the "most favored-nation" clause of the existing treaty of 1875 between the United States and Belgium.

The importace of the questions involved in the claim of the Belgian Government, and in like claims preferred by other Governments, has led to the submission of the entire subject to the judgment of the Attorney-General.

The conclusions of the Department of Justice, after a careful examination of the premises, are that—

> The discrimination as to tonnage duty in favor of vessels sailing from the regions mentioned in the act, and entered in our ports is, I think, purely geographical in character, inuring to the advantage of *any* vessel of *any* power that may choose to fetch and carry between this country and any port embraced by the fourteenth section of the act. I see no warrant, therefore, to claim that there is anything in the "most-favored-nation" clause of the treaty between this country and the powers mentioned that entitles them to have the privileges of the fourteenth section extended to their vessels sailing to this country from ports outside of the limitation of the act.

These conclusions are accepted by the President, and I have, accordingly, the honor to communicate them to you as fully covering the points presented in your note of the 19th of June last.

Accept, etc.,

T. F. BAYARD.

## *CORRESPONDENCE WITH THE LEGATION OF DENMARK IN WASHINGTON.*

### No. 7.

### *Mr. de Lövenörn to Mr. Bayard.*

ROYAL DANISH LEGATION,
*New London, Conn., August* 27, 1885. (Received August 31.)

Mr. SECRETARY OF STATE: The attention of the Danish Government has been called to the fact that, under the provisions of section 14 of the act of June 26, 1884, a duty of 6 cents per ton at each entry, not to exceed in the aggregate 30 cents per ton per annum, is imposed upon vessels entered in the United States from Danish ports, whereas vessels entered from foreign ports or places in North America, Central America, the West India Islands, the Bermuda Islands, the Sandwich Islands, or Newfoundland, are liable only to the payment of a duty of 3 cents per ton at each entry, not to exceed 15 cents per ton in any one year.

In Article I of the treaty concluded between Denmark and the United States April 26, 1826, the contracting parties engage mutually not to grant any particular favor to other nations in respect of commerce and navigation which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession were freely made, or on allowing the same compensation, if the concession were conditional.

My Government being of opinion that, by virtue of the said article, Danish vessels entered in the United States from ports in Denmark are justly entitled to enjoy the same privilege which has been granted by section 14 of the act of June 26, 1884, to vessels entered from ports in the countries therein enumerated, I have been instructed to make the request that the tax on such Danish vessels shall be collected, at their entrance in ports of the United States, at the rate of 3 cents per ton at each entry, not exceeding 15 cents per ton per annum, instead of, as heretofore, at the rate of 6 cents per ton, or 30 cents per ton per annum.

Section 14 of the above-named act further provides—

> That the President of the United States shall suspend the collection of so much of the duty herein imposed on vessels entered from any port in the Dominion of Canada, Newfoundland, the Bahama Islands, the West India Islands, Mexico, and Central America down to and including Aspinwall and Panama, as may be in excess of the tonnage and light-house dues, or other equivalent tax or taxes, imposed on American vessels by the government of the foreign country in which such port is situated.

By a proclamation of January 31 last, the President, by virtue of the authority thus vested in him, has suspended the collection of the tax of 3 cents per ton as regards vessels arriving from certain ports in the Dominion of Canada, in the United States of Colombia, and others.

The Danish Government holds that, by virtue of Article I of the treaty of 1826, the conditional benefits granted under the joint operation of the second part of section 14 of the act of 1884, and the said proclamation of the President, likewise inure to the advantage of Danish vessels entered from their national ports, so that if satisfactory proof be furnished that no tonnage and light-house dues or other equivalent taxes are collected from American vessels in Danish ports, or that less than 3 cents per ton are paid by such vessels, the collection of these taxes from Danish vessels in American ports should be either entirely suspended or proportionately reduced.

Not being prepared, however, to furnish such proof as yet, my Government, in directing me to make this statement, wishes to reserve this part of the question for a further communication, limiting itself, for the present, to the request I have had the honor to submit to you above with regard to the reduction of the rate of tonnage tax from 6 cents to 3 cents per ton.

I avail, etc., P. LÖVENÖRN.

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No. 8.

*Mr. Bayard to Mr. Lövenörn.*

DEPARTMENT OF STATE,
*Washington, November* 7, 1885.

SIR: I had the honor to receive in due season your note of August 27 last, touching the application of the provisions of the 14th section of the shipping act approved June 26, 1884, in respect of the collection of tonnage tax, to vessels of Denmark coming from ports of that country to ports of the United States, under the most favored nation clause of the existing treaty of 1826 between the United States and Denmark.

The importance of the questions involved in the claim of the Danish Government, and in like claims preferred by other governments, has led to the submission of the entire subject to the judgment of the Attorney-General.

The conclusions of the Department of Justice, after a careful examination of the premises, are that—

> The discrimination as to tonnage duty in favor of vessels sailing from the regions mentioned in the act, and entered in our ports, is, I think, purely geographical in character, inuring to the advantage of *any* vessel of *any* power that may choose to fetch and carry between this country and any port embraced by the fourteenth section of the act. I see no warrant, therefore, to claim that there is anything in the most fovored nation clause of the treaty between this country and the powers mentioned that entitles them to have the privileges of the fourteenth section extended to their vessels sailing to this country from ports outside of the limitation of the act.

These conclusions are accepted by the President, and I have accordingly the honor to communicate them to you as fully covering the points indicated in your note of August 27 last.

Accept, etc.,

T. F. BAYARD.

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## GERMANY.

No. 9.

*Mr. Bayard to Mr. Pendleton.*

No. 181.] DEPARTMENT OF STATE,
*Washington, January* 5, 1887.

SIR: As you are aware, the Government of Germany has claimed the extension to the carrying trade between German ports and the United States, without equivalent, of the benefits conceded by the shipping act of 1884 to all carrying flags coming from ports within a geographical region contiguous to our borders,

Notwithstanding that the amendatory shipping act of June 19, 1886, provides in its eleventh section for the enlargement of the privilege of reduced tonnage on the basis of reciprocity where the condition or neighborhood does not exist, the Imperial Government has anticipated the proposal authorized by that and by the twelfth section of the act referred to by claiming the privilege without equivalent. I transmit, for your information, copy of Mr. von Alvensleben's note of August 1, 1886, in which the claim is so presented and defended by arguments which I am unable to accept as sound or sufficient.

A reply to the German demand has been delayed, partly because it appeared necessary to first dispose of the Swedish and Norwegian claim, on which the others more or less depend, and partly from a desire to give to the merits of the discussion a material modification by entering into a reciprocal arrangement with one or more countries under the expanded provisions of sections 11 and 12 of the act of June 19, 1886.

The inclosed copies of correspondence had with the Swedish and Norwegian minister will show you the present status of the discussion with that Government. It is sent to you for your information merely, not for communication to the German Government.

The Government of the Netherlands has asked the formal conclusion of the reciprocal understanding, provided for by the eleventh section of the act of June 19 last, and the only obstacle to the acceptance of the proposal and the issuance of the President's proclamation lies in a recently-discovered ambiguity in the subproviso of that section, which renders it uncertain in its application. Its early amendment is, however, probable, when the proclamation will forthwith be issued.

This instruction is sent in order to keep you fully advised of the progress of an important discussion with the country to which you are accredited, but no action on your part appears to be necessary beyond reporting any facts which may come to your knowledge in this relation.

I am, etc.,

T. F. BAYARD.

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## *CORRESPONDENCE WITH THE LEGATION OF GERMANY IN WASHINGTON.*

### No. 10.

### *Mr. von Alvensleben to Mr. Bayard.*

[Translation.]

IMPERIAL GERMAN LEGATION,
*Washington, August* 3, 1885. (Received August 5.)

The undersigned, imperial German ambassador extraordinary and minister plenipotentiary, has, in accordance with the orders he has received, the honor to make the following very respectful communication to Hon. Thomas F. Bayard, Secretary of State of the United States.

By a law of June 26, 1884 (an act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes), section 14 (tonnage tax), it has been provided that vessels which sail from a port in North or Central America, in the West Indian Islands, the Bahama, Bermuda, and Sandwich Islands, to a port of the United States, shall pay in it, in place of the previous tonnage tax of 30 cents per ton a year, only 3 cents per ton,

and not more than 15 cents a year, whilst vessels from other foreign ports have to bear a tax of 6 cents. This lowering of the tax to 3 cents has been granted to the favored countries—Canada, Newfoundland, the Bahamas, Bermuda, and West Indian Islands, Mexico, and Central America, including Panama and Aspinwall—unconditionally and without regard to the taxes, however relatively high, these countries on their side levy on American ships.

Article IX of the Prussian-American treaty of the 1st of May, 1828, which has been lately, in the correspondence between the cabinets of Berlin and Washington concerning the petroleum railroad rates as well as because of the Spanish-American treaty concerning the trade of Cuba and Puerto Rico, successively asserted by both Governments to be valid for all Germany, runs as follows:

> If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party, freely, where it is freely granted to such other nation, or on yielding the same compensation, when the grant is conditional.

The treaties which the United States in their time have concluded with the Hanse cities, Oldenburg and Mecklenburg, contain similar provisions. In accordance with the purport of these, Germany has an immediate claim, and without making any concession in return, to participate in the enjoyment of the tonnage tax abatement to 3 cents per ton, which has been unconditionally conceded.

The undersigned is, in accordance with the view of the Imperial Government, above set forth, directed to claim from the Government of the United States for German vessels the abatement of the tonnage tax to 3 cents per ton, and to propose, at the same time, the repayment of the tonnage tax which at the rate of 6 cents per ton has been overpaid since the law of the 26th of June, 1884, went into effect.

While the undersigned reserves for himself the right to make in due time proper proposals in reference to the abatement provided over and above this in the law of the 26th June of last year, dependent on certain conditions, and which (abatement) may in the future even exceed that of 3 cents per ton, according to the result of proper inquiries concerning the tonnage dues and other taxes, hereafter to be levied in German harbors, he has the honor to request very respectfully that the Secretary of State will kindly take the proper course, so that German shipping may as soon as possible participate in the unconditional favor, to which it is entitled, of an abatement of the tonnage tax to 3 cents.

The undersigned has the honor to await, very respectfully, your kind answer in reference to this matter, and avails himself, etc.

H. v. ALVENSLEBEN.

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## No. 11.

### *Mr. Bayard to Mr. von Alvensleben.*

DEPARTMENT OF STATE,
*Washington, November* 7, 1885.

SIR: I had the honor to receive in due season your note of August 3 last, touching the application of the provisions of the fourteenth section of the shipping act, approved June 26, 1884, in respect of the collection of tonnage tax to vessels of Germany coming from ports of that country to ports of the United States, under the most favored nation

clause of the existing treaty of 1828 between the United States and Germany.

The importance of the questions involved in the claim of the German Government and in like claims preferred by other governments has led to the submission of the entire subject to the judgment of the Attorney-General.

The conclusions of the Department of Justice, after a careful examination of the premises, are that—

> The discrimination as to tonnage duty in favor of vessels sailing from the regions mentioned in the act, and entered in our ports is, I think, purely geographical in character, inuring to the advantage of any vessel of any power that may choose to fetch and carry between this country and any port embraced by the fourteenth section of the act. I see no warrant, therefore, to claim that there is anything in "the most favored nation clause" of the treaty between this country and the powers mentioned that entitles them to have the privileges of the fourteenth section extended to their vessels sailing to this country from ports outside of the limitation of the act.

These conclusions are accepted by the President, and I have, accordingly, the honor to communicate them to you, as fully covering the points presented in your note of August 3 last.

Accept, etc.,

T. F. BAYARD.

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No. 12.

*Count Leyden to Mr. Bayard.*

[Translation.]

IMPERIAL GERMAN LEGATION,
*Washington, November* 17, 1885. (Received November 19.)

Mr. SECRETARY OF STATE:

I have the honor most respectfully to acknowledge the receipt of your polite note of the 7th instant, whereby you inform me that the Department of Justice of the United States has decided in the matter of the application of the provisions of section 14 of the act relative to navigation of June 26, 1884, to German vessels, that the reduction of tonnage duties which is provided for a specified region is of a purely geographical character, and that the most favored nation clause can consequently have no application in this case.

I have the honor, at the same time, to inform you that I have brought the contents of your aforesaid note to the notice of the Imperial Government.

Accept, etc.,

COUNT LEYDEN.

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No. 13.

*Mr. von Alvensleben to Mr. Bayard.*

[Translation.]

IMPERIAL GERMAN LEGATION,
*Washington, February* 16, 1886. (Received February 18.)

Mr. SECRETARY OF STATE:

The Imperial Government has seen by your note of November 7, 1885, relative to the enforcement of the provisions of section 14 of the navigation act of June 26, 1884, that the United States Government rejects

the application (made on the basis of the most favored-nation treaties now existing with Prussia and the German States) for equal rights with the States of North and Central America and the West Indies. This rejection is based on the ground that that exemption which is granted to all vessels of all powers sailing between the countries in question and the United States is purely geographical in its character, and can not, therefore, be claimed by other States in view of the most favored-nation clause.

I am instructed, and I have the honor most respectfully to reply to this, that such a line of argument is a most unusual one, and is calculated to render the most favored-nation clause wholly illusory. On the same ground, it would be quite possible to justify, for instance, a privilege granted exclusively to the South American States, then one granted also to certain of the nearer European nations, so that finally, under certain circumstances, always on the pretext that the measure was one of a purely geographical character, Germany alone, among all the nations that maintain commercial relations with America, notwithstanding the most favored-nation right granted to that country by treaty, might be excluded from the benefits of the act.

It can not be doubted, it is true, that on grounds of a purely local character certain treaty stipulations between two powers, or certain advantages autonomically granted, may be claimed of third States not upon the ground of a most favored-nation clause. Among these are included facilities in reciprocal trade on the border, between States whose territories adjoin each other. It is, however, not to be doubted that the international practice is that such facilities, not coming within the scope of a most favored-nation clause, are not admissible save within very restricted zones. In several international treaties these zones are limited to a distance of ten kilometers from the frontier. From this point of view, therefore, the explanation given by the United States Government of section 14 of the shipping act can not be justified.

This law grants definite advantages to entire countries, among others to those situated at a great distance from the United States; these advantages are, beyond a doubt, equivalent to facilities granted to the trade and navigation of those countries, even if they do, under certain circumstances, inure to the benefit of individual vessels of foreign nations. It scarcely need be insisted upon that these advantages favor the entire commerce of the countries specially designated in the act, since they are now able to ship their goods to the United States on terms that have been artificially rendered more favorable than those on which other countries not thus favored are able to ship theirs.

The treaty* existing between Prussia and the United States expressly stipulates that—

> If either party shall hereafter grant to any other nation any particular favor in navigation or commerce it shall immediately become common to the other party, freely where it is freely granted to such other nation, or on yielding the same compensation when the grant is conditional.

Such a compensation, so far as the reduction of the tonnage tax to 3 cents is concerned, has not been stipulated for by the United States in the aforesaid shipping act. Germany is, therefore, *ipso facto*, entitled to the reduction of the tax in favor of vessels sailing from Germany to the United States, especially since, according to the constitution of the Empire, no tonnage tax is collected in Germany from foreign vessels; that is to say, no tonnage tax of the character of American ton-

*Treaty of 1828, Art. IX.

nage taxes in the sense of section 8, paragraph 1, article 1, of the American Constitution, viz, those designed to pay the debts of the Government and to pay the expenses of the common defense and the general welfare.

As you remark in your esteemed note, Mr. Secretary of State, you have based your decision on an opinion of the Attorney-General. In opposition to this view, it will be seen by the printed decisions of the Secretary of Treasury, that the latter, in an opinion on this subject addressed to the Department of State under date of May 11, 1885, expressed the opinion that vessels sailing from Portugal to the United States are, indeed, entitled to the privileges granted by section 11 of the shipping act, on the ground of the most favored-nation treaty existing between the two nations. This opinion harmonizes in the main with the view entertained by the Imperial Government.

The Imperial Government entertains the hope, in view of the foregoing considerations, that the United States Government on reconsidering this matter will not maintain the position taken in the note of November 7, 1885, and that it will grant to German vessels sailing between the two countries the same privileges that have long been granted without compensation by the German Empire to American vessels.

In having the honor, therefore, hereby to reiterate the application made in my note of August 3, 1885, for the reduction of the tonnage tax to 3 cents in favor of vessels engaged in trade between Germany and the United States, I hope that the decision of the United States Government in this matter will be kindly communicated to me.

Accept, etc.,

H. v. ALVENSLEBEN.

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No. 14.

*Mr. Bayard to Mr. Alvensleben.*

DEPARTMENT OF STATE,
*Washington, March 4, 1886.*

SIR: With reference to previous correspondence on the subject, I have the honor to acknowledge the receipt of your note of the 15th ultimo, relative to the question as to the applicability of the most favored-nation clauses of the treaties of Prussia and other German states and the United States to the provisions of section 14 of the act of Congress of June 26, 1884.

In reply I beg to inform you that your note will have consideration, it being sufficient for the present to observe that Germany admits that neighborhood and propinquity justify a special treatment of intercourse which may not be extended to other countries under the favored-nation clause in treaties with them, and only appears to question the distance within which the rule of neighborhood is to operate.

Accept, sir, etc.,

T. F. BAYARD.

No. 15.

*Mr. von Alvensleben to Mr. Bayard.*

[Translation.]

IMPERIAL GERMAN LEGATION,
*Washington, August* 1, 1886. (Received August 2.)

Mr. SECRETARY OF STATE:

I had the honor duly to receive your note of the 4th of March last, whereby you informed me that my observations concerning the applicability of the most favored nation clause to section 14 of the act of Congress of June 26, 1884, would be taken into consideration, and in which, for the time being, you confined yourself, by way of reply, to one remark.

In the mean time an act of Congress entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," has been approved by the President of the United States under date of June 19, 1886 (Public—No. 85), and has thereby become a law. I have brought this act to the notice of the Imperial Government and have been instructed to state the view taken by that Government of this latest law and to ask your attention to its incompatibility with the stipulations of the treaty existing between Germany and the United States.

This act extends, in a measure, the power conferred upon the President by section 14 of the act of June 26, 1884, to diminish tonnage dues in certain cases.

According to the act of 1884 the President was authorized, only in the case of vessels coming from the ports of North and Central America, the West Indies, the Bahama, Bermuda, and Sandwich Islands, or Newfoundland, and entering ports of the United States, to reduce the duty of 3 cents per ton, which was imposed on such vessels, provided that the said duty exceeded the dues which American vessels were obliged to pay in the aforesaid ports.

A reduction of the duty of 6 cents, to which all vessels coming from other ports were subjected, was not allowable, even on the supposition in question.

Vessels from the aforesaid favored ports thus enjoyed a special preference in two ways: In the first place, they paid in all cases a duty of but 3 cents per ton, while vessels from other ports were obliged to pay 6 cents per ton; even these 3 cents could be remitted, either in whole or in part, provided that it could be shown that the duty paid by American vessels in the ports concerned amounted to less than 3 cents per ton, or that no such duty was levied in said ports. This latter privilege is, according to the new law, no longer to be exclusively enjoyed by vessels from the favored ports.

Likewise, vessels from other than the most favored ports may obtain a reduction or return of the duty of 6 cents to be paid by them per ton, provided that in the ports from which they have come American vessels pay less than 6 cents or no tonnage duty at all. The amount of the duty to be remitted is computed according to the amount of the duties levied in the ports of departure.

The new law is evidently based upon the idea of reciprocity. If this idea had been consistently carried out no objection could be made to it and the Imperial Government would have no further ground of com-

plaint. This, however, is not the case, inasmuch as the new law grants special privileges, as did the old, to vessels from the above-mentioned ports, declaring that they, without any compensation on their part, shall pay but 3 cents per ton, even though a duty in excess of that amount is paid by American vessels in the ports concerned. The number of favored ports is even extended to those of South America bordering on the Caribbean Sea.

The Imperial Government has from the outset protested against this one sided privilege, which is in violation of the treaty stipulations of Germany with the United States. Since this privilege is not only not abolished by the new law, but is confirmed and even still further extended, the original attitude assumed by the Imperial Government towards the old law has been in no wise changed by the new act, and the Imperial Government must continue to protest against the violations of its treaty rights while maintaining the arguments contained in my note of February 15, 1886. As long as vessels from the ports of North and Central America pay but one-half the tonnage duty that is levied upon vessels from German ports, without being required to furnish proof that less than 6 cents is exacted from American vessels in their ports, the Imperial Government will be obliged to maintain its claim for similar usage, viz, the exemption from furnishing such proof.

As is stated in my note of February 15, 1886, the Imperial Government is unable to regard as conclusive your principal argument, viz, that the privilege in question is of a purely geographical character, because the effect of this privilege is to benefit, in point of fact, the entire trade and navigation of those countries in which the ports in question are situated. No paramount importance can be attached (as is done by the United States Government) to the mere form in which this privilege is granted to particular countries.

I am therefore instructed, on the ground of the treaty right pertaining to the Imperial Government, to reiterate its previous claim that German ports shall be placed on a footing precisely similar to that of North and Central American ports, etc., and most respectfully to request you, Mr. Secretary of State, to favor me with the further reply which, in your note of March 4, you gave me to understand that I might expect from you.

Accept, etc.,

H. v. ALVENSLEBEN.

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*CORRESPONDENCE WITH THE LEGATION OF ITALY AT WASHINGTON.*

No. 16.

*Baron Fava to Mr. Bayard.*

LEGATION OF ITALY,
*Washington, February* 16, 1886. (Received February 17.)

Mr. SECRETARY OF STATE:

In pursuance of the provisions of the fourteenth section of the act of Congress of June 26, 1884, "to remove certain burdens on the American merchant marine," etc., vessels coming from the ports of North and Central America, and from the West Indies, Bahama, Bermuda, and Sandwich Islands, or from Newfoundland, have, since the aforesaid act took effect, been subjected, on their arrival in the United States, to the pay-

ment of a duty of 3 cents per ton, not exceeding, in the aggregate, 15 cents per ton in any one year, while a duty of 6 cents per ton, not exceeding, in the aggregate, 30 cents per ton in any one year, continues to be levied upon vessels coming from Italian ports. Having been duly informed of this fact, the Government of the King instructs me, and I have the honor hereby to request the Federal Government to be pleased to adopt the necessary measures to the end that vessels coming from Italian ports may likewise enjoy, from the date of the aforesaid act of Congress, the same privilege that is accorded by the fourteenth section of the act in question to vessels coming from ports in the countries enumerated in the section aforesaid.

It is scarcely necessary to remind your excellency that the request which I have been instructed to lay before you is based upon article 24 of the treaty of June 25, 1871, which is now in force between Italy and the United States. The English text of said article is as follows:

The United States of America and the Kingdom of Italy mutually engage not to grant any particular favor to other nations, in respect to commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely if the concession was freely made, or on allowing the same compensation if the concession was conditional.

The fourteenth section of the act "to remove certain burdens on the American merchant marine," etc., further provides that—

The President of the United States shall suspend the collection of so much of the duty herein imposed on vessels entered from any port in the Dominion of Canada, Newfoundland, the Bahama Islands, the Bermuda Islands, the West India Islands, Mexico, and Central America, down to and including Aspinwall and Panama, as may be in excess of the tonnage and light-house dues or other equivalent tax or taxes imposed on American vessels by the Government of the foreign country in which such port is situated.

The President, in the exercise of this power, has suspended, by his proclamation of January 31, 1885, the collection of the tax of 3 cents per ton on vessels coming from certain ports in Canada, the United States of Colombia, and other countries.

On the ground, moreover, of the clause contained in article 24 of the treaty concluded in 1871 between Italy and the United States the Royal Government regards the conditional privilege granted by the second paragraph of the fourteenth section of the act of Congress of 1884 and by the proclamation of the President of the United States as already secured in behalf of Italian vessels coming from the ports of the peninsula. Consequently, if it shall be possible to prove that American vessels are subjected in Italian ports to the payment of no tonnage or light-house duty, or to that of no equivalent tax, or that American vessels pay less than 3 cents per ton in Italian ports, the duties which Italian vessels are now obliged to pay in the ports of the United States should be entirely suspended or proportionally reduced.

As the Italian Government is not prepared, just at present, to furnish such proof (although it reserves the privilege of so doing in future communications), it instructs me, in the mean time, to bring the foregoing to the attention of the American Government, and to ask your excellency's good offices to the end that the duty of 6 cents per ton, which is still levied in the ports of the United States upon vessels coming from those of Italy, may be reduced to 3 cents from the date of the promulgation of the act "to remove certain burdens on the American merchant marine," etc.

Be pleased to accept, etc.,

FAVA.

No. 17.

*Mr. Bayard to Baron Fava.*

DEPARTMENT OF STATE,
*Washington, March* 12, 1886.

BARON: I have the honor to acknowledge the receipt of your note of the 16th ultimo, calling attention to the provisions of section 14 of the act of Congress of June 26, 1884, "to remove certain burdens on the American merchant marine," etc., reducing the amount of tonnage-tax on vessels entered in any port of the United States from any foreign port in North America, Central America, and certain other quarters named, and fixing a "duty of 6 cents per ton * * * at each entry upon all vessels which shall be entered in the United States from any other foreign ports."

Your note also calls attention to the provisions of Article XXIV of the treaty of February 26, 1871, between Italy and the United States, which reads: "The United States of America and the Kingdom of Italy mutually engage not to grant any particular favor to other nations, in respect to commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same freely if the concession was freely made, or on allowing the same compensation if the concession was conditional;" and you communicate the request of your Government, in view of said section 14 and Article XXIV of the treaty, that vessels from Italian ports "may likewise enjoy from the date of the aforesaid act of Congress the same privilege that is accorded * * * to vessels coming from ports in the countries enumerated in section 14."

The Department had occasion to present the question of the proper interpretation of the fourteenth section of the act mentioned in connection with the "favored-nation clause" of our treaties with certain countries to the Attorney-General in September last. The opinion communicated in reply is that—

> The discrimination as to tonnage duty in favor of vessels sailing from the regions mentioned in the act and entered in our ports is purely geographical in character, inuring to the advantage of *any* vessel of *any* power that may choose to fetch and carry between this country and any port embraced in the fourteenth section of the act; and that no warrant exists to claim that there is anything in "the most favored-nation" clause of the treaties between this country and the powers mentioned—

in the letter of this Department to the Attorney-General of the 8th September, of which Italy was one—

> that entitles them to have the privileges of the fourteenth section extended to their vessels sailing to this country from ports outside the limitation of the act.

It will be seen that the opinion above relates to the entire scope of article 14 of the act of 1884, and therein furnishes the reply to the second branch of your inquiry, as well as the first.

Accept, baron, etc.,

T. F. BAYARD.

*CORRESPONDENCE WITH THE LEGATION OF PORTUGAL IN WASHINGTON.*

No. 18.

*Mr. Bayard to Viscount das Nogueiras.*

DEPARTMENT OF STATE,
*Washington, May* 21, 1885.

SIR: I have the honor to acknowledge the receipt of your note of the 15th March last, in which you convey a request that vessels trading between the ports of Portugal and those of the United States may enjoy the benefits granted to those of other countries by virtue of the proclamation of the President of January 31, last.

The request is made upon the supposition that the privileges granted to certain vessels under the joint operation of the fourteenth section of an act "to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes," approved June 26, 1884, and the said proclamation of the President, inure to the advantage of Portuguese vessels by virtue of Article XIII of the treaty of the United States with Portugal of August 26, 1840.

The article of the treaty reads:

If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party, freely where it is freely granted to such other nation, or on yielding the same compensation or an equivalent *quam proxime* where the grant is conditional.

(In this connection I beg to append for convenient reference a copy of section 14 of the act of June 26, 1884, and a copy of the proclamation of January 31, 1885.)

The Secretary of the Treasury, having been asked for an expression of his views as to the character of the conditional concession granted by the fourteenth section of the said shipping act, observes that the concession is an exemption from tonnage tax allowed all vessels arriving in the United States from ports situated in the localities named in that section, equal to the amount by which the tax of 3 cents per ton—levied on vessels in ports of the United States—exceeds the amount collected from vessels of the United States for tonnage tax, light-house dues, or equivalent taxes in ports within the localities mentioned. The proclamation specifies the ports within those localities whence vessels sailing to ports of the United States, upon arrival, get the benefit of an entire exemption from the tax of 3 cents per ton. The reason for the complete exemption is that *no* tax per ton, nor light-dues, nor any equivalent taxes, are exacted from American vessels in those ports.

In order to an allowance of *entire* exemption from tonnage tax to vessels arriving from ports in these localities it is necessary that the government of the foreign country within whose domain a particular port is situated should not impose at that port a similar tax or light-dues on American vessels. But if the foreign government does not impose such a tax at a port within the localities named, then the exemption inures to the benefit of *all* vessels arriving in ports of the United States from any such port that does not impose such taxes.

The fourteenth section of the shipping act, the Secretary of the Treasury observes—

Concedes a privilege to vessels of Mexico and Central America, which is at once *national* and geographical—contingent upon similar concessions from those Govern-

ments. This privilege is an exemption from tonnage tax on all direct voyages between *national* ports and ports of the United States. It seems to me, therefore, that under the stipulations of Article XIII of the treaty with Portugal of 1840, a similar contingent privilege is granted by the shipping act to vessels of Portugal sailing from their national ports directly for ports in this country; but *not* to Portuguese vessels arriving in our ports from ports of departure that do not under the shipping act invest vessels sailing from them with a right to exemption. Moreover, the conditional concessions of the statute would *not* extend to any other vessels than those of Portugal and the United States sailing on direct voyages between Portugal and this country; nor if an exemption for Portuguese vessels can be claimed under the joint operation of the shipping act and Article XIII of her treaty of 1840, could such vessels claim a greater exemption than for 3 cents per ton, which is the maximum amount of the exemption that could on any conditions be allowed vessels of Mexico or the Central American States.

This Department sees no reason for differing from the above views. The question remains, "Whether Portugal does exempt vessels of the United States in her ports from such a payment of tonnage tax, lighthouse dues, or equivalent taxes as would exempt her vessels in our ports from the whole or a part of the tax of 3 cents per ton."

Accept, etc.,

T. F. BAYARD.

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## No. 19.

### *Mr. Bayard to Viscount das Nogueiras.*

DEPARTMENT OF STATE,
*Washington, November 7*, 1885.

VISCOUNT: I have had the honor to recur to the question presented in your note of the 15th March last, to which my note of May 21 made response by communicating to you the views of the Treasury Department touching the application of the provisions of the fourteenth section of the shipping act approved June 26, 1884, to vessels of Portugal coming from ports of that country directly to ports of the United States under the most favored nation clause of the existing treaty of 1840.

You will recall the opinion of the Secretary of the Treasury, as quoted by me, to the effect that while the stipulations of Article XIII of the treaty with Portugal would seem to involve the granting, by the shipping act, of similar contingent privilege to vessels of Portugal sailing from their national ports directly for ports of the United States, this privilege is not granted to "Portuguese vessels arriving in our ports from ports of departure that do not, under the shipping act, invest vessels sailing from them with a right to exemption."

The importance of the questions involved in the claim of the Portuguese Government, and in like claims subsequently preferred by other governments, has led to the submission of the entire subject to the judgment of the Attorney-General, to the end that a precise and uniform response should be made in each case.

The conclusions of the Department of Justice, after a careful examination of the premises, are, that—

The discrimination as to tonnage duty in favor of vessels sailing from the regions mentioned in the act and entered in our ports is, I think, purely geographical in character, inuring to the advantage of *any* vessel of *any* power that may choose to fetch and carry between this country and any port embraced by the fourteenth section of the act. I see no warrant, therefore, to claim that there is anything in "the most favored nation" clause of the treaty between this country and the powers mentioned that entitles them to have the privileges of the fourteenth section extended to their vessels sailing to this country from ports outside the limitation of the act.

These conclusions are accepted by the President, and I have accordingly the honor to communicate them to you as fully covering the points presented in your note of 15th March last.

Accept, etc.,

T. F. BAYARD.

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## SWEDEN AND NORWAY.

### No. 20.

*Mr. Porter to Mr. Magee.*

No. 49.] DEPARTMENT OF STATE,
*Washington, August* 5, 1887.

SIR: I have to request that you will inform the Department at the earliest convenient date whether any, and, if any, what difference exists under the shipping laws of Sweden and Norway between the tonnage dues charged on vessels in the ports of Sweden and the ports of Norway.

The correspondence between the Department and the minister of Sweden and Norway at this capital, in relation to the shipping act of 1884, as amended in 1886, in connection with the treaty of 1827 between the United States and Sweden and Norway, has disclosed the fact that at the time of, and subsequently to, the conclusion of that convention, there existed a considerable difference between the system of tonnage and other duties charged in the ports of Sweden and that enforced in the ports of Norway. The Department desires to be informed in relation to that difference; in what it consisted, and when and in what manner it was terminated.

The point which has been brought particularly to the notice of the Department in the correspondence referred to is that in 1827, and for some time thereafter, the rate of tonnage and other duties levied in the ports of Norway was adjusted upon a geographical basis.

For example, vessels coming from ports in the Mediterranean were charged a less rate than vessels coming from more remote points, among which were, of course, ports of the United States. To this discrimination between vessels coming from Mediteranean ports and those coming from the ports of the United States this Government objected as in contravention of Article VIII of the treaty of 1827, and the Government of Sweden and Norway yielded the point.

The Department desires to know how long after that admission the discrimination continued to operate as between Sweden and Norway and other countries than the United States.

Again asking your early attention to the matter,

I am, etc.,

JAS. D. PORTER,
*Acting Secretary.*

## No. 21.

### *Mr. Magee to Mr. Bayard.*

No. 101.] LEGATION OF THE UNITED STATES,
*Stockholm, November* 7, 1887. (Received November 21.)

SIR: I have the honor to inform you that I am in receipt of a note from his excellency Count Ehrensvörd, secretary of foreign affairs, in response to my inquiry based upon your instruction No. 49, of date August 5 last.

From the note of his excellency I am informed no discrimination exists at the present time, or has since the year 1827, in tonnage or other duties charged upon shipping as between native and foreign-built vessels. The only exception is fishing vessels entering ports of the United Kingdom from the Arctic and White Seas.

I have caused to be translated section 4 of the royal ordinances relating to tonnage dues, etc., and inclose such translation with this dispatch.

I also inclose a translation of section 9 of the royal ordinances of Norway regulating tonnage charges, etc.

In Norway the tax is calculated on the actual amount of cargo tons embarked or discharged, and not on the ship's measurement. Since 1876 tonnage tax and light-house charges have been united in a single tax.

In 1827 the following classification was established in Norway:

A. Vessels coming from all places outside of the European ports with the exception of the ports in the Mediterranean.

B. Vessels coming from Mediterranean ports.

C. Vessels coming from all European ports not comprised in item B.

By circular dated August 9, 1828, vessels coming from ports of the United States or returning there were ranked in class C.

This classification is still in force. Perhaps this information is not as full and complete as you would desire. It is in substance what has been furnished me.

I have, etc.,

RUFUS MAGEE.

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[Inclosure 1 in No. 101.]

ROYAL ORDINANCE IN RELATION TO TONNAGE, ETC. (SWEDEN.)

The tonnage duties to the State are alike for Swedish and foreign vessels, fixed to 10 öre per ton, according to the existing bill of tonnage, and has to be paid every time, both when incoming and outgoing; but, if a ship during the time of one year makes several voyages between Sweden and foreign countries, the duty for outgoing is only paid for the first voyage, and for repeated incoming only for vessels loaded, when they unload more or less of their cargo, and will also be considered, as ballasted, but whose quantity of load is of less importance compared to their tonnage; in which case will be applied the stipulation in § 44 in the royal statute regarding the pilot department, February 15, 1881, as this paragraph reads according to the royal edict, November 17, 1882. Regarding alterations in certain parts of the abovenamed statute—

When vessels have been loaded and unloaded at different places, tonnage duty is only paid at the first port of loading or unloading, of which a certification has to be made on the bill of measurement or passport. The following ships are free from tonnage duties:

Ship destined or not destined to a Swedish port, coming in and going out in ballast.

Ship which, running between foreign countries, enters a Swedish port in order to leave passengers and their baggage, or discharges to another ship goods for export.

Ship which, from urgent necessity or to receive further orders, enters a Swedish port without taking on board any other loading than that necessary for the crew, passengers, or ship.

Ship which, in consequence of average, about which protest is made, enters a Swedish port for discharging her cargo and, after repairs, reloads the same for export.

Ship which, from the above-stated reasons, discharges and sells more or less of the cargo when such sale is limited to what is necessary for defraying the cost of repairs.

Ship which, during voyage between foreign countries, loads or unloads in a Swedish port goods not exceeding a quarter of the ship's tonnage, which shall be calculated according to the ship's documents.

In all these cases the master of the ship has to follow those regulations in the statute of customs which prescribe that he shall report himself at the nearest custom-house and deliver the bill of measurement, observing also what being applicable in that said statutes may be there stipulated regarding demands of duty pass.

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[Inclosure 2 in No. 101.]

ROYAL ORDINANCE OF NORWAY REGULATING TONNAGE TAX.

Tonnage duty and light-house dues have to be paid with 80 öre per ton by ships importing or exporting goods according to the following rules:

A. No duty is charged for ships going out of the kingdom for fishing, *Provided*, That if goods be exported to foreign countries duty has to be paid both for outgoing and incoming. If on returning home goods are brought from foreign countries, the duty for incoming is paid after the general rules.

B. Duty for direct voyage between Norway and Sweden is only 30 öre per ton when the whole cargo is loaded and unloaded in these countries. From the date when for such voyages no shipping dues are charged in Sweden duty ceases.

C. Ships when trading between the ports of the White Sea or Arctic Ocean only pay 40 öre per ton.

In charging these duties it must be observed that they are charged according to the tonnage in the ship's bill of measurement when the custom-house offi er declares the ship to be full loaded, else the duty is charged according to as many tons as the ship has loaded or unloaded, never, though, for more tons than the ship's bill of measurement indicates. If the cargo loaded or unloaded at the same custom-house does not amount to one ton, no tonnage duties or light-house dues are paid.

The regulations necessary for reducing goods into tons are promulgated by Government.

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## No. 22.

### *Mr. Bayard to Mr. Magee.*

No. 55.] DEPARTMENT OF STATE,
*Washington, November* 28, 1887.

SIR: I have received your No. 101, of November 7 last, in reply to instruction No. 49, of August 5.

As stated in that instruction, the Department desired information especially on the point whether the discriminating tonnage-duty which was charged in 1827 on vessels in Norwegian ports, according to the geographical position of the port of departure, and which appears to have been discontinued as to vessels of the United States under the eighth article of the treaty of 1827, was still levied on the vessels of other countries than the United States after that time; and if so, how long.

The Department infers from the dispatch that the geographical discrimination referred to is so continued, but would have been glad to receive more explicit and detailed assurances on the point than have been furnished.

I am, etc.,

T. F. BAYARD.

## No. 23.

### *Mr. Rufus Magee to Mr. Bayard.*

No. 106.] LEGATION OF THE UNITED STATES,
*Stockholm, December* 14, 1887. (Received January 3, 1888.)

SIR: I have the honor to acknowledge the receipt of your No. 55, under date of November 28 last.

Since 1827 there have been no discriminating duties charged in Norwegian ports on vessels arriving from ports of any country. The rates since that period on all vessels, except as stated in my No. 101 as to small fishing vessels from the White and Arctic Seas, has been uniform, no geographical distinction being made.

I have, etc.

RUFUS MAGEE.

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## No. 24.

### *Mr. Magee to Mr. Bayard.*

No. 133.] LEGATION OF THE UNITED STATES,
*Stockholm, July* 17, 1888. (Received July 30).

SIR: I have the honor to inclose herewith a copy in French of a note received on the 13th instant, from Count Ehrensvärd, secretary of foreign affairs for the Royal Kingdoms, relating to tonnage dues charged by the Norwegian Government on vessels trading at ports in the Arctic and White Seas.

I have thought it best to transmit a copy of the note rather than to trust to my own translation of the same.

It will be observed that by a recent law of the Norwegian Government a change in tonnage dues has been made on vessels trading with ports in the Arctic zone, so as to bring the charges into unison with the existing treaty.

I have, etc.,

RUFUS MAGEE.

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[Inclosure in No. 133.—Translation.]

### *Count Ehrensvärd to Mr. Magee.*

STOCKHOLM, *July* 12, 1888.

Mr. MINISTER: With a view to completing the information which I sent to you with my note of October 25, 1887, concerning the navigation dues of Sweden and in Norway, I have the honor herewith to transmit to you a law which was promulgated in Norway on the 30th of June last, whereby a change has been made as regards the reduced duty (40 öre per ton) that was enjoyed by the navigation of the Arctic zones.

This law, as formerly worded, granted the benefit of the reduction to all vessels arriving from or sailing for ports in the Arctic Ocean and the White Sea.

Although the only vessels that were really benefited by this privilege were those engaged in the unimportant local coasting trade of those northern regions, where from time immemorial no distinction of nationality has been made, it nevertheless seemed to the royal government that the text of the law might appear to the United States Government not to be in conformity with Article VIII of the treaty of 1827 between the United Kingdoms and the United States. It might, indeed, have been remarked that a vessel arriving from a Russian port in the White Sea in a Norwegian port situated south of the Arctic region (which, by the way, has never yet happened, and

probably will not do so for a long time to come, save as rare exception) would pay but 40 öre per ton whereas a vessel arriving from the United States in the same port would pay 80 öre. It is true that the hypothesis was not probable, but it was still possible. It was consequently deemed necessary by the Government of the King to change the form of the text of the law, in order to remove even the appearance of any lack of conformity with the stipulations of the treaty of 1827. A royal proposition to this effect was approved immediately by the Storthing of Norway, and, as you will perceive, the text of the new law provides that a reduction of the tonnage and light duty of 40 öre per ton is henceforth to be granted to all vessels arriving at or sailing from Hammerfest, Vardöe, and Vadsö. The privilege that might have been enjoyed by a vessel arriving from a Russian Arctic port in a Norwegian port lying south of the Arctic Ocean has thus been eliminated, and the Norwegian law is now in form, what it has always been in fact, in strict conformity with the treaty.

I hope that your Government will regard the care which we have taken to make our law harmonize with the treaty, without even waiting for a complaint on its part, as an evidence of our sincere desire to keep our international engagements in all points with the most scrupulous fidelity.

Be pleased, etc.,

EHRENSVÄRD.

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## *CORRESPONDENCE WITH THE LEGATION OF SWEDEN AND NORWAY IN WASHINGTON.*

### No. 25.

### *Mr. Reuterskiöld to Mr. Bayard.*

LEGATION OF SWEDEN AND NORWAY,
*Washington, June* 17, 1885. (Received June 18.)

SIR: With reference to our conversation this morning I beg to inclose a short memorandum concerning the tonnage-tax question I spoke to you about.

Accept, etc.,

L. REUTERSKIÖLD.

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[Inclosure.]

MEMORANDUM.

By section 14 of an act approved June 26, 1884, "to remove certain burdens on the American merchant marine, and encourage the American foreign carrying trade, and for other purposes," it is enacted:

"That, in lieu of the tax on tonnage of 30 cents per ton per annum heretofore imposed by law, a duty of 3 cents per ton, not to exceed in the aggregate 15 cents per ton in any one year, is hereby imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the Sandwich Islands, or Newfoundland; and a duty of 6 cents per ton, not to exceed 30 cents per ton per annum, is hereby imposed at each entry upon all vessels which shall be entered in the United States from any other foreign ports."

Article VIII of the treaty concluded between Sweden and Norway and the United States of America, July 4, 1827, reads as follows:

"The two high contracting parties engage not to impose upon the navigation between their respective territories, in the vessels of either, any tonnage or other duties, of any kind or denomination, which shall be higher or other than those which shall be imposed on every other navigation except that which they have reserved to themselves, respectively, by the sixth article of the present treaty."

By virtue of the said article, a higher tonnage-tax than that imposed by section 14 of the above-cited act of June 26, 1884, on vessels arriving from ports or places in the countries therein mentioned, that is to say, 3 cents per ton at each entry, not to exceed in the aggregate 15 cents per ton in any one year, can not, after the entering into force of said act, be imposed upon vessels arriving in any port of the United States from any port or place in Sweden or Norway.

WASHINGTON, *June* 17, 1885.

No. 26.

*Mr. Reuterskiöld to Mr. Bayard.*

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
*Washington, October* 4, 1885. (Received October 8.)

Mr. SECRETARY OF STATE:

By section 14 of the act approved June 26, 1884, the object of which was "to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, etc.," a tonnage duty of 3 cents per ton, not to exceed in the aggregate 15 cents per ton in any one year, was substituted for the duty of 6 cents per ton, not to exceed 30 cents per ton per annum, in the case of vessels arriving from certain countries therein enumerated.

On the other hand, the treaty concluded July 4, 1827, between the United Kingdoms of Sweden and Norway and the United States of America declares, in Article VIII, as follows:

> The two high contracting parties engage not to impose upon the navigation between their respective territories, in the vessels of either, any tonnage or other duties of any kind or denomination which shall be higher or other than those which shall be imposed on every other navigation, except that which they have reserved to themselves, respectively, by the sixth article of the present treaty,

which exception has reference to coastwise navigation.

Consequently the Government of the King is of opinion that vessels coming from Sweden and Norway should enjoy the benefit of the reduction of the tonnage duty provided for in section 14 of the act of June 26, 1884. The royal Government thinks that there can be no doubt whatever with regard to this right, since the treaty in force expressly provides that no higher duties than those which shall be imposed on every other navigation shall be imposed upon navigation between the respective territories, and that, consequently, vessels arriving from our ports have an absolute right to profit by any reduction allowed to vessels coming from any port whatever, whether such reduction as regards certain ports is based upon their geographical situation or their nationality.

Having been instructed to communicate the views of my Government on this subject officially to the Government of the United States, I have, in obedience to orders received, the honor to ask that the reduction of the tonnage duty to 3 cents per ton, not to exceed in the aggregate 15 cents per ton in any one year, may be extended to vessels from Sweden and Norway.

I avail, etc.,

REUTERSKIÖLD.

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No. 27.

*Mr. Bayard to Mr. Reuterskiöld.*

DEPARTMENT OF STATE,
*Washington, November* 7, 1885.

SIR: I had the honor to receive in due season your note of the 17th June last, touching the application of the provisions of the 14th section of the shipping act, approved June 26, 1884, in respect of the col-

lection of tonnage tax, to vessels of Sweden and Norway, coming from ports of that country to ports of the United States, under the most-favored-nation clause of the existing treaty of 1827, between the United States and Sweden and Norway.

The importance of the questions involved in the claim of the Government of Sweden and Norway, and in like claims preferred by other Governments, has led to the submission of the entire subject to the judgment of the Attorney-General. The conclusions of the Department of Justice, after a careful examination of the premises, are, that—

> The discrimination as to tonnage duty, in favor of vessels sailing from the regions mentioned in the act, and entered in our ports, is, I think, purely geographical in character, inuring to the advantage of *any* vessel of *any* power that may choose to fetch and carry between this country and any port embraced by the 14th section of the act. I see no warrant, therefore, to claim that there is anything in the "most favored nation" clause of the treaty between this country and the powers mentioned, that entitles them to have the privileges of the 14th section extended to their vessels sailing to this country from ports outside of the limitation of the act.

These conclusions are accepted by the President, and I have accordingly the honor to communicate them to you as fully covering the points presented in your note of the 17th of June last.

Accept, sir, etc.,

T. F. BAYARD.

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No. 28.

*Mr. Reuterskiöld to Mr. Bayard.*

LEGATION OF SWEDEN AND NORWAY,
*Washington, November* 11, 1885. (Received November 12.)

Mr. SECRETARY OF STATE:

I have had the honor to receive your excellency's note of the 7th instant, relative to the enforcement of the provisions of section 14 of the shipping act approved June 26, 1884, as regards tonnage duties.

After having, on the 17th of June last, sent your excellency a memorandum on this subject, I addressed to you, under date of the 4th of the following October, an official note, in which I stated the view taken of this question by the King's Government, and asked, in obedience to the instructions which I had received, that the reduction of the tonnage duty provided for in section 14 might be made applicable to vessels coming from Sweden and Norway.

As your excellency has seen, both by my aforesaid note and by the memorandum, the royal Government, in making this request, did not do so on the ground of Article II of the treaty of 1783 (which was continued in force by that of 1827), which article has reference to the usage to be accorded to the most favored nation, but it took as the basis of its claim, Article VIII of the treaty of 1827, which reads thus:

> The two high contracting parties engage not to impose upon the navigation between their respective territories, in the vessels of either, any tonnage or other duties of any kind or denomination, which shall be higher or other than those which shall be imposed on every other navigation, except that which they have reserved to themselves, respectively, by the sixth article of the present treaty,

which exception has reference to coastwise navigation.

Under these circumstances the royal Government can not consider its claim as having been set aside by the statement made by your excellency in your note of the 7th instant, since the refusal of the United States Government to extend to vessels coming from Sweden and Nor-

way the benefit of the reduction of the tonnage duty provided for in section 14 of the aforesaid act, was based solely upon its interpretation of the most-favored-nation clause, to which clause my Government did not appeal.

I consequently have the honor again to submit the claim of my Government to the consideration of the United States Government, begging it to be pleased to consider the clearness with which Article VIII of the treaty of 1827—which article constitutes the basis of the claim—provides that neither of the contracting parties shall impose any tonnage duty higher or other than that imposed on every other navigation.

I trust that the United States Government will think that Article VIII of the treaty of 1827 is susceptible of no interpretation differing from that of my Government, according to which navigation between the territories of the contracting parties, in vessels belonging to either nation, is entitled to the benefit of the reduction of tonnage duties established by section 14 in behalf of navigation between the United States and certain territories therein enumerated.

Accept, etc.,

REUTERSKIÖLD.

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## No. 29.

[Translation.]

*Mr. Reuterskiöld to Mr. Bayard.*

LEGATION OF SWEDEN AND NORWAY,
*Washington, March*, 8, 1886. (Received March 9.)

Mr. SECRETARY OF STATE: I have the honor again to ask your excellency's kind attention to the note preceded by a memorandum dated June 17, 1885, which, by order of my Government, I addressed to you on the 4th of October last, asking (on the basis of Article VIII of the treaty between the United Kingdoms of Sweden and Norway and the United States of America, concluded July 4, 1827) for a reduction of tonnage dues, according to section 14 of the shipping act approved June 26, 1884.

The Government of the King, which I informed, without delay, of the transmission of the memorandum of June 17, 1885, entertained the hope that this matter would be easily and speedily settled in a manner consonant with both the spirit and with the clear and distinct wording of Article VIII of the existing treaty.

I should be grateful to your excellency if you would have the kindness to communicate to me, with as little delay as possible, the reply of the United States Government to the application of my Government, and I avail myself, etc.

REUTERSKIÖLD.

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## No. 30.

*Mr. Bayard to Mr. Reuterskiöld.*

DEPARTMENT OF STATE,
*Washington, March* 29, 1886.

SIR: Referring to your notes of the 17th June, 4th October, and 11th November last, as also to that of the 8th instant, I have the honor to inform you that the whole question of the claims of Sweden and Nor-

way against the terms of the shipping act of the 26th June, 1884, by virtue of her special treaty provisions, has again received the careful attention which its importance merits.

The claim appears to be that by the eighth article of the treaty of 1827 the shipping of Sweden and Norway is entitled to the benefits of the above-mentioned act in common with other nations, but without submission to its geographical conditions and limitations as exacted from them.

It is not found that this claim of Sweden and Norway can be assented to by this Government any more under the fourth article of the treaty of 1827 than under the "most-favored-nation clause" of that treaty, simply on account of the phrase "every other navigation" in that article, or that it would be consistent to admit Sweden and Norway under that treaty to the benefits of the reduced tonnage duty of the act of 26th June, 1884, without likewise exacting its qualifications and conditions.

The object of the treaty was doubtless to secure the shipping of each of the contracting parties from discriminations imposed by the other and not practiced against other powers. The act of 1884 admits all nations to its benefits, but these can only be enjoyed upon the terms on which they are offered, and it is expected that Sweden and Norway will accede to those terms in common with other nations. It is not found that the act of 1884 is in any way in conflict with the treaty of 1827, or that there is any occasion, even if there were the means, for not carrying out its terms as the deliberate expression of the law-making power of the United States.

Accept, etc.,

T. F. BAYARD.

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No. 31.

*Mr. Reuterskiöld to Mr. Bayard.*

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
*Washington, March* 31, 1886. (Received April 1.)

Mr. SECRETARY OF STATE: I have this day had the honor to receive your excellency's note of the 29th instant, whereby you inform me that the United States Government declines to entertain the claim of the King's Government, which was presented in my note of October 4, 1885, in behalf of the vessels of our countries, which, in the opinion of my Government, were, according to Article VIII of the treaty concluded July 4, 1827, beyond a doubt entitled to the enjoyment of the advantages granted to the vessels of other countries by section 14 of the shipping act approved June 26, 1884.

While reserving the transmission to your excellency of such further communication as his excellency, the minister of foreign affairs, may instruct me to address to you on this subject, I must protest, without further delay, in the name of the Royal Government, against the refusal of the United States Government to entertain the claim which the Royal Government thought it had a right to present on the ground of an article of a treaty now in force, which, in the opinion of my Government, is in no way ambiguous, either in letter or spirit.

Be pleased to accept, etc.,

REUTERSKIÖLD.

## No. 32.

### *Mr. Reuterskiöld to Mr. Bayard.*

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
*Washington, D. C., June* 30, 1886. (Received July 1.)

Mr. SECRETARY OF STATE: Referring to my note of the 31st of March last, I have the honor to address to your excellency a fresh communication upon the same subject, that is to say, touching the tonnage dues which at the present time weigh upon navigation between the United Kingdoms of Sweden and Norway and the United States.

His excellency the minister of foreign affairs at Stockholm has recently sent me instructions on the subject by a dispatch dated the 12th of this month, directing me at the same time to deliver a copy thereof to your excellency. I have, consequently, the honor to annex hereto a copy of that dispatch.

Your excellency will see by the line of argument developed in that document, and by the tenor of my instructions, that the Royal Government firmly maintains its position in demanding, in favor of the navigation between Sweden and Norway and the United States, the same advantages as are conceded by the shipping act of June 26, 1884, to that between the United States and other territories.

In conformity with the orders given to me, I now renew the demand upon the Government of the United States already set forth in my notes of the 4th October and 11th November of last year—that, in virtue of article 8 of the treaty of 1827, the navigation between the United Kingdoms of Sweden and Norway and the United States (whether by Swedish and Norwegian vessels or American vessels) be admitted to enjoy the benefits of the reduction which fixes the tonnage dues at 3 to 15 cents.

Convinced that the well-grounded demand of the Royal Government can be no longer gainsaid, and that it will please your excellency to set me in the way of informing my Government of the reply it confidently awaits, I hasten to embrace this opportunity to renew, etc.,

REUTERSKIÖLD.

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[Inclosure.—Translation.]

*Copy of note addressed by his excellency the minister of foreign affairs at Stockholm to the minister of Sweden and Norway in Washington, under date of June* 12, 1886.

I have had the honor to receive with your dispatch of March 31 last a copy of the note which Mr. Bayard addressed to you under date of the 29th of the same month touching our claim to obtain for the navigation between the United Kingdoms and the United States the same advantages as those which have been granted by the shipping act of June 26, 1884, to the navigation between the United States and certain areas of territory. You have, at the same time, sent me a copy of the correspondence on the subject which was printed for the use of Congress.

The answer of Mr. Bayard is negative, but the terms in which it is couched lead me to believe that, notwithstanding the clearness with which you, in the notes you addressed to him under date of October 4 and November 11, 1885, set forth the views and the demands of the King's Government, our position has not been well comprehended.

In those notes you asked that the reduction of tonnage dues accorded by the act of June 26, 1884, to the vessels of any nation arriving in the United States from certain geographical points shall be also granted to vessels arriving from Sweden and Norway. You did not speak of the nationality of such vessels, but only of their point

of departure, your object being thereby to make it evident that it was not for the merchant shipping of Sweden and Norway, as such, that we claimed the privilege in question, but for the vessels arriving in the United States from our ports, without distinction of nationality.

Nevertheless, Mr. Bayard, in the note above referred to, thus defined our claim:

"The claim appears to be that, by the eighth article of the treaty of 1827, the shipping of Sweden and Norway is entitled to the benefit of the above-mentioned act in common with other nations, but without submission to its geographical conditions and limitations as exacted from them."

It is therefore evident that the scope of our claim has not been well understood, for if, instead of the words "the shipping of Sweden and Norway," there had been employed the words "the shipping arriving from Sweden and Norway"—which would have indicated the precise point in question—all the latter part of the paragraph which I have just cited would become absolutely incomprehensible.

Mr. Bayard's note can not, therefore, be considered as a reply to our demand, and it becomes necessary to invite anew the attention of the Government of the United States to the rights which accrue to us under the express stipulations of our treaties, and the more so as Mr. Bayard appears to assert, at the end of his note, the opinion that there is no conflict between the act of 1884 and our treaty of 1827. As this is precisely the point in dispute, I deem it useful to sum up our arguments afresh.

By the treaties of 1783 (article 2) and 1827 (article 17) the treatment of the most-favored nation is reciprocally established between the United Kingdoms and the United States. It is stipulated, in addition, by the eighth article of the treaty of 1827 as follows:

"The two high contracting parties engage not to impose upon the navigation between their respective territories, in the vessels of either, any tonnage or other duties, of any kind or denomination, which shall be higher or other than those which shall be imposed on every other navigation except that which they have reserved to themselves, respectively, by the sixth article of the present treaty."

I must here point out the importance of the words "the navigation between their respective territories." It is in nowise a question of the privileges of the mercantile marine of Sweden and Norway or the United States as such, but it concerns in the clearest possible manner the navigation from the ports of one of the parties to those of the other, which is expressly benefited on an equality with every other navigation. The significance of this stipulation is rendered still more clear by the fact that it was deemed necessary to declare, by a separate article, that article 8 should not be applicable to the navigation between the United Kingdoms and Finland, which is bound to the United Kingdoms by considerations of proximity and ancient relationship, and therefore enjoys an exceptional position. But no equivalent reservation was deemed necessary on the part of the United States, and it remains, consequently, established by the article in question, that vessels, whether Swedish or Norwegian or American, arriving from our ports in those of the United States, have a right to the benefits of any reduction of tonnage or other dues which may be granted to vessels coming from any geographical point whatever.

I have begun by setting forth this argument, since it appears to me to define the question in a manner so clear and decisive, that it seems to me that after having taken it into consideration the solid foundation of our claim can no longer be the occasion of a doubt. I could, therefore, content myself with the support given to us by the stipulations of article 8; but, in order to better elucidate everything connected with this matter, I deem it due to assert that the "most favored-nation" clause seems to the Government of the King equally to justify a demand to participate in the reduction of the tonnage dues to 3 to 15 cents. It is true that this reduction applies to all vessels, without distinction or nationality, arriving from certain ports; but, since the Government of the United States maintains that no favor is accorded to the navigation of the countries where such ports are situated, since other vessels than those of the country itself share therein, it does not take into account that this advantage constitutes for the commerce of the ports in question, and consequently for the nations to which they belong, a veritable favor, since the traders there residing have obtained the privilege of employing for their intercourse of importation or exportation with the United States vessels which, on arriving in the American ports, are better treated and have lesser charges to pay than the vessels made use of by their competitors in other countries. It seems to me difficult not to admit that this is a favor, and, in so far as it has been granted gratuitously to any party in interest, our right to participate therein clearly flows from article 2 of the treaty of 1783. In placing ourselves upon this point of view, it is unnecessary to discuss whether the privilege created by the shipping act of 1884 in favor of certain ports is to be called national or geographical, as Mr. Bayard maintains in his note of November 7, 1885; for even if it be agreed to style the advantage created for the navigation of these ports a geographical privilege, it remains certain that the advantage granted to their commerce is a national favor.

I do not find that the considerations I have herein set forth have been sufficiently discussed in the correspondence which you have sent me, and I invite you in consequence to renew the demand heretofore made upon the Government of the United States that, in virtue of the eighth article of the treaty of 1827, the vessels, whether Swedish or Norwegian or American, arriving in the United States from Sweden or Norway be admitted to share in the reduction of tonnage dues to 3 to 15 cents.

It seems to me that a refusal can not rest on any other assumption than that the act of 1884 has made the stipulations of the treaty of 1827 without effect. There is no necessity for my insisting on the fact that such an assumption would be contrary to the principles of international law recognized by civilized nations, and I have too much confidence in the good faith of the Government of the United States to suppose that it proposes to maintain that the obligations of a contract as solemn as our treaty can be modified or annulled at will by one of the contracting parties alone.

Accept, sir, etc.,

ALB. EHRENSVÄRD.

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## No. 33.

### *Mr. Reuterskiöld to Mr. Bayard.*

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
*Washington, November* 15, 1886. (Received November 16.)

MR. SECRETARY OF STATE: I had the honor to transmit to your excellency, as an inclosure to my note of the 30th of June last, a copy of a dispatch from his excellency the minister of foreign affairs at Stockholm, bearing date of the 12th of the month, and stating the reasons which cause the Royal Government to maintain the position which it took in claiming a reduction of the tonnage duty to from 3 to 15 cents per ton on vessels belonging to the United Kingdoms of Sweden and Norway and entering the ports of the United States.

In the mean time a bill (Public, No. 85) entitled, "An act to abolish certain fees for official services to American vessels and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," has been passed by Congress, and the President of the United States, by approving the said bill, has made it a law.

The provisions of this new law have been brought by me to the knowledge of my Government.

The Royal Government, having examined the provisions of this law, has found that it is in several respects manifestly at variance with the treaty now in force which was concluded between the United Kingdoms of Sweden and Norway and the United States July 4, 1827, inasmuch as, in certain cases, it favors American vessels above those of the United Kingdoms, this being in contravention of that clause of the above-mentioned treaty which places our vessels on "the same footing as national vessels."

I have consequently been instructed to protest, in the name of the King's Government, against these legal provisions, which are in violation of an existing treaty, and also to declare that the Royal Government can not regard the act of June 19, 1886, as modifying in the slightest degree the situation of the United Kingdoms in respect to the United States, as that situation is established by the force of a treaty.

The Royal Government has likewise found, by examining this new law, that the United States Government maintains its position on the tonnage question, against which position we also protest.

In the new law the United States Government goes still farther than it does in the shipping act of June 26, 1884, the scope of that act having been enlarged, and the question of the diminution or entire abolition of tonnage dues having assumed another character, viz, that of reciprocity. In this connection I am instructed to state that, as reciprocity did not form the basis of the facilities granted to certain countries and their vessels, my Government maintains its views with regard to the duties which should undoubtedly, in its opinion, be imposed upon navigation between Sweden and Norway and the United States.

I think it proper for me to add that the Royal Government confidently expects a speedy and full settlement of the questions stated in the present note, and in those which I have had the honor to address to you on the same subject.

Be pleased, etc.,

REUTERSKIÖLD.

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No. 34.

*Mr. Bayard to Mr. Reuterskiöld.*

DEPARTMENT OF STATE,
*Washington, December* 20, 1886.

SIR: I had the honor, on the 3d of July last, to receive your note, dated the 30th of June preceding, in continuation of the previous correspondence touching the operation of section 14 of the shipping act of June 26, 1884, and the claim of Sweden and Norway thereunder.

The paper you were then pleased to inclose to me is a copy of an instruction addressed to you by the minister for foreign affairs of the United Kingdoms, under date of June 14, 1886, whereby you are invited "to renew the demand heretofore made upon the Government of the United States that, in virtue of the eighth article of the treaty of 1827, the vessels, whether Swedish or Norwegian, or American, arriving in the United States from Sweden or Norway, be admitted to share in the reduction of tonnage dues to 3 to 15 [cents?]."

Certain manifest contradictions involved in Mr. Ehrensvärd's presentation of this demand, and an apparent confusion which is consequently interwoven with his argument, made an examination thereof somewhat difficult and embarrassing, especially in view of his intimation that, in the consideration I have heretofore bestowed upon the question at issue, the position of the King's Government, and its views and demands, have not been fully understood by me.

In the first place, Mr. Ehrensvärd's paper of June 14, 1886, confirms the impression created in my mind by the preceding correspondence, that he confounds "navigation" with "commerce," using the two words as full equivalents of each other, and seeks to attach to a treaty provision which deals solely with "navigation" the more comprehensive idea of an equality of national commerce.

It need hardly be argued that the terms "commerce" and "navigation" are not synonyms, nor are they employed indifferently. Commerce concerns all the transactions of property exchanged. Navigation relates solely to the means of carriage, without regard to the origin or ownership or regulations imposed upon the things carried. "Navigation" is commonly synonymous with "shipping" or "carrying flag."

While other articles of the treaty of 1827 relate to rights of commerce and navigation, severally or together, the eighth article relates solely to

navigation—that is, to the marine flag. Its object is clear, that no carrying flag of any other nation shall have a favor granted to it which may not be equally claimed on the same terms for Sweden and Norway.

The fourteenth section of the shipping act of 1884 favors the flag of Sweden and Norway, within the defined geographical limits, equally with that of the United States or of any other nation. It creates an absolute and universal status of navigation, without any national discrimination whatever. Had it been framed to meet the special obligation created by article 8 of the treaty of 1827 it could not have more completely fulfilled its object. Mr. Ehrensvärd's dispatch admits that the treatment of the fourteenth section of the shipping act "applies to all vessels, without distinction of nationality, arriving from certain points;" but, doubtless perceiving that this admission of actual equality of navigation is fatal to the claim of Sweden and Norway for a more extended territorial treatment unless qualified, he proceeds to argue that the supposed discrimination is in reality commercial, and that it falls under the general favored nation stipulation of the treaty of 1783, because it is commercial. If this expansion of the text be justifiable, article 8 of the treaty of 1827 has no application to the case now in view.

In the second place, I must confess my inability to reconcile the postulate assumed by Mr. Ehrensvärd in his dispatch with the conclusions he deduces therefrom in formulating the demand of Sweden and Norway.

In my note to you of 29th March last I said, speaking of this demand:

"The claim appears to be that, by the eighth article of the treaty of 1827, the shipping of Sweden and Norway is entitled to the benefit of the above-mentioned act, in common with other nations, but without submission to its geographical conditions and limitations, as exacted from them."

To this statement Mr. Ehrensvärd appeals as showing that the scope of the Swedish and Norwegian claim "has not been well understood" by me; that the claim is not limited to "the shipping of Sweden and Norway," but includes, to use his own words, "the shipping" [under whatever flag] "arriving from Sweden and Norway." A few citations from Mr. Ehrensvärd's dispatch may be pardoned, even at the risk of prolixity. He says:

> It was not for the merchant shipping of Sweden and Norway, as such, that we claimed the privilege in question, but for the vessels arriving in the United States from our ports, without distinction of nationality.

Again, he points out the importance of the words, "the navigation between their respective territories," found in article 8 of the treaty of 1827, and adds:

> It is in nowise a question of the privileges of the mercantile marine of Sweden and Norway or the United States, as such, but it concerns in the clearest possible manner the navigation from the ports of one of the parties to those of the other.

His excellency will kindly permit me to point out, in response, the importance of the words of article 8 immediately following those cited by him, *i. e.*, "in the vessels of either"—which he has apparently failed to consider and certainly has omitted to quote. The article in its entirety can certainly afford the Swedish and Norwegian Government no ground having the slightest plausibility to claim the privilege of such extended "navigation" for any other national flag than their own. This conclusion would seem to have forced itself on his excellency's mind, for he closes his instruction by claiming the treatment of the shipping act only for the "vessels, whether Swedish or Norwegian or American, arriving in the United States from Sweden and Norway." And this is the for-

mulation and distinct limitation of the demand presented by you in your note of 30th June, 1886, to which I have the honor to reply.

My response might here reasonably close with the foregoing statement of the demand of the Government of Sweden and Norway and my reply thereto founded upon the provisions of the treaty which were supposed to sustain it, for assuredly it is not my province or duty to pursue the construction of formulations as an answer to premises so palpably in conflict with themselves, and which, if attempted, would fail to be satisfactory.

But, having no desire to prolong discussion uselessly, I may be permitted to observe that only one of two forms of demand appears to be logically open to consideration.

(1) That the United States shall, without stipulated consideration or equivalent, exact, in their ports, from vessels of Sweden or Norway, coming from any ports of Sweden or Norway, no higher tonnage duties than the 3 to 15 cent rate established by the shipping act; and

(2) That the geographical zone defined by the shipping act shall be constructively enlarged so as to include all the ports of Sweden and Norway, so that the ships of any nation may engage in the "navigation" between those ports and the ports of the United States on the terms applied and confined to a particular commercial region by the shipping act.

It is clear that the first of these propositions (which, setting aside the argument employed by Mr. Ehrensvärd and its resultant confusion, would seem to be embraced in the demand formulated in your note of June 30, 1886) would not claim an expansion of the status described and sought to be created by the shipping act. It would, on the contrary, seek to establish a flag discrimination, and to inhibit all other flags from participation in a lucrative carrying trade—and this in one direction only, for there is not in the past or present propositions of the Swedish and Norwegian Government the slightest suggestion of reciprocity in such a differential arrangement. It would, moreover, establish such discrimination in favor of Swedish and Norwegian vessels only whilst denying it to vessels of the United States, for it is not competent to the United States and to Sweden and Norway to create by international arrangement a status for United States vessels in the ports of the United States different from that fixed by the municipal law of the United States.

This is the construction which is wholly at variance with the force and meaning of our treaties with Sweden and Norway. No construction that gives Swedish and Norwegian vessels a preference over our own is rational or admissible or deducible from the terms of the treaties.

The second proposition is not before me, nor is it inferable from the past or present formulation of the Swedish and Norwegian demand.

I am constrained, with all courtesy, not to admit Mr. Ehrensvärd's suggestion that a refusal on the part of the United States to accede to the Swedish and Norwegian demand "can not rest on any other assumption than that the act of 1884 has made the stipulations of the treaty of 1827 without effect." The treaty stipulations of the United States are sacredly respected and fully executed. If it is desired to annul them in any case it will preferably be done by resort to denunciation rather than by statutory abrogation, although the latter method is recognized by the highest authorities as municipally competent and valid.

In conclusion, I must courteously but positively repeat the assurances

heretofore given that the provisions of the shipping act of 1884, which extend to the navigation of all nations certain generous and equal privileges, do not, in the judgment of the Government of the United States, conflict with the eighth article of the treaty of 1827 with Sweden and Norway, and express my inability to assent to a demand which, if acquiesced in, would create, under cover of a supposed treaty engagement, a new system of discriminations of commerce, as well as of navigation, not authorized by the statute on which the claim professes to rest, and which would, moreover, give to that statute a construction and meaning devoid of reciprocity, and contrary to the letter and equally to the spirit and intent of the treaties which have been cited and are now existing between Sweden and Norway and the United States, and wholly at variance with the policy of this and other nations of the present day.

Accept, etc.

T. F. BAYARD.

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No. 35.

*Mr. Bayard to Mr. Reuterskiöld.*

DEPARTMENT OF STATE,
*Washington, December* 20, 1886.

SIR: I have had the honor to receive and consider the note you were pleased to address to me under date of 15th November ultimo, wherein, by direction of your Government, you make general protest against the provisions of the shipping act of June 26, 1884, and the later amendatory act of June 19, 1886, as being "manifestly at variance with the treaty now in force which was concluded between the United Kingdoms of Sweden and Norway and the United States July 4, 1827, inasmuch as in certain cases it favors American vessels above those of the United Kingdoms, this being in contravention of that clause of the abovementioned treaty which places our vessels on the same footing as national vessels."

You do not, however, state the particulars wherein consists the alleged treatment of Swedish and Norwegian vessels on a different footing from those of the United States.

Having the most jealous regard for the stipulations of its treaties, the Government of the United States is no less concerned than the United Kingdoms can possibly be in seeing that no discriminating treatment of the respective merchant flags is permitted. I shall be glad, therefore, if, by pointing out the provisions in question, you will afford me an opportunity of making the necessary investigation and of applying the needful correction.

An examination of the statutes in question suggests to me that your Government may take exception to the provisions of section 12 of the act of June 26, 1884, which establishes an exemption from the payment of consular fees for official services rendered to vessels of the United States and to American seamen.

These consular services are of two classes: first, those dependent upon the nationality of the vessel, and which can only be performed by the consul of the vessel's country; and, secondly, those dependent upon the destination of the vessel, whatever be the flag under which she sails, and which are performed by the consul of the country to whose ports the vessel is bound.

In the present case, as the services of the first class can not be performed by the consuls of the United States for the vessels or seamen of Sweden and Norway, no differential treatment is possible, and the Government of the United Kingdoms can no more question the right of the United States so to tax its own vessels or relieve them from taxation at will than the Government of the United States could question the right of Sweden and Norway to treat Swedish and Norwegian vessels as they please with respect to such services performed by Swedish and Norwegian consuls.

But as to services of the second class performed by consuls of the United States for vessels of whatever flag which may be bound for ports in the United States, I am prepared to admit that any tax collected by a consul of the United States from a vessel of Sweden and Norway which is not collectible under the same circumstances from a vessel of the United States is in conflict with the letter and spirit of the Articles II and VIII of the treaty of 1827, because imposing a burden upon the navigation of one country from which the navigation of the other is, *cæteris paribus*, exempt; of this class is the consular fee for the certification of a bill of health, and, possibly, other services.

I shall, therefore, await your articulated statement of the discriminations of this class, of which your Government complains.

Your note of November 15 further states that "the Royal Government has likewise found, by examining this new law, that the United States Government maintains its position on the tonnage question, against which position we also protest."

The Government of the United Kingdoms is quite correct in its inference that the Government of the United States maintains its position on the tonnage question. In a note addressed to you under even date with this, and in answer to your note of 30th June, 1886, I have considered the demand which your Government has deemed itself in a position to make for an equality of treatment of navigation. Your present note sets up no specific demand in this regard, but takes the form of a general, and consequently indefinite protest. To this I reply, that the provisions of the United States shipping acts in respect of tonnage dues have the express sanction of the existing treaty stipulations between the two countries, and are in exact conformity with their engagements. I invite your attention to the provisions of Article II of the treaty of 1827, which article your Government has apparently not deemed it necessary to invoke hitherto in the course of the discussion. The first clause of that article, which defines the treatment of Swedish and Norwegian vessels in the ports of the United States, stipulates that such vessels, "from whatever place they may come, shall be treated on their entrance, during their stay, and at their departure upon the same footing as national vessels coming from the same place with respect to the duties of tonnage, light-house, pilotage, and port charges, as well as to the perquisites of public officers, and all other duties or charges of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishment whatsoever." You will not fail to note that the equality of treatment herein prescribed is expressly conditioned on the respective vessels "coming from the same place;" and it is precisely this equality which is secured by the acts in question, for a Swedish or Norwegian vessel coming from any point in the defined area of geographical neighborhood to a point in the United States pays the same reduced charges as a vessel of the United States making the like voyage.

I am unable, therefore, to admit your protest in this regard as well *founded.*

Your note of November 15 further declares as follows:

In the new law the United States Government goes still further than it does in the shipping act of June 26, 1884, the scope of that act having been enlarged and the question of the diminution or entire abolition of tonnage dues having assumed another character, viz, that of reciprocity. In this connection I am requested to state that as reciprocity did not form the basis of the facilities granted to certain countries and their vessels, my Government maintains its views with regard to the duties which should undoubtedly, in its opinion, be imposed upon navigation between Sweden and Norway and the United States.

I have shown in previous correspondence that no facilities have been granted by the acts in question to "certain countries," and much less to the vessels thereof. A universal privilege of navigation has been created within a geographically-defined zone, proximate to our own territory, in which the merchant marine of Sweden and Norway equally shares without any equivalent from the Royal Government. A further privilege is granted conditional upon the reciprocal treatment of American vessels within that zone, amounting in the given case to the entire abolition of tonnage dues; but if that additional privilege be established the navigation of Sweden and Norway, coming from the same place, fully and freely shares it.

Section 12 of the shipping act, as amended June 19, 1884, directs the opening of negotiations with foreign countries generally, with a view to the mutual abolition of "all light-house dues, tonnage taxes or other equivalent tax or taxes on, and also all other fees for official services to the vessels of the respective nations employed in the trade between the ports of such foreign country and the ports of the United States.

Circumstances have delayed the initiation of the general negotiation thus authorized. I should be reluctant to construe the declaration of your present note as an announcement, in advance of the contemplated friendly proposal of the United States, that the Government of the United Kingdoms rejects any overtures founded on mutuality of treatment, and will demand every such equality while refusing equivalence. It is to be expected that other Governments will graciously accede to the proposed negotiations, and in that event the duty of the Government of Sweden and Norway and the United States is clearly defined by the second article of the treaty of 1783 (which is expressly revived and confirmed by the seventh article of the treaty of 1827) as follows:

The King and the United States engage mutually not to grant hereafter any particular favor to other nations in respect to commerce and navigation which shall not immediately become common to the other party, who shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation if the concession was conditional.

Accept, etc.,

T. F. BAYARD.

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No. 36.

*Mr. Reuterskiöld to Mr. Bayard.*

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
*Washington, March* 9, 1887. (Received March 10.)

Mr. SECRETARY OF STATE:

Referring to my previous notes on the tonnage question, I have the honor to address a few further considerations on this subject to your excellency.

With a view to ascertaining (by documents forming part of the correspondence exchanged at the time of the conclusion of the treaty of July 4, 1827, between the United Kingdoms of Sweden and Norway and the United States) the spirit in which that treaty should be interpreted as regards the question now before us, his excellency Count Ehrensvärd ordered a search to be made among the archives of the royal ministry of foreign affairs at Stockholm. That search brought to light three documents, which I have been instructed to transmit to your excellency.

Immediately after the conclusion of the treaty in question a difference of opinion arose with regard to Article VIII. This led to an exchange of notes between Baron Stackelberg, chargé d'affaires of Sweden and Norway at Washington, and Mr. Clay, Secretary of State of the United States, and to another exchange of notes between Count de Wetterstedt, minister of foreign affairs at Stockholm, and Mr. Appleton, chargé d'affaires of the United States at that capital, the two latter gentlemen having been the signers of the treaty.

Your excelleney will find herewith a copy of—

(1) A note addressed by Baron Stackelberg to Mr. Clay under date of April 3, 1828.

(2) A note from Mr. Clay to Baron Stackelberg, dated April 28, 1828.

(3) A note addressed by Count de Wetterstedt to Mr. Appleton under date September 10, 1828.

I think it unnecessary for me here to recapitulate the question which gave rise to the difference of opinion relative to the enforcement of Article VIII, and to a reclamation on the part of the United States Government.

That reclamation had reference to Norway alone. Tonnage duties in Sweden were uniform for all arrivals and for all distances, while in Norway there existed a classification with three schedules, differing according to the port of departure. A distinction was made between vessels which had sailed—

(1) From any place outside of Europe except the Mediterranean.

(2) From the Mediterranean; and

(3) From any European port. The tonnage duties levied upon vessels arriving from ports outside of Europe, or from those in the Mediterranean, were higher than those levied upon vessels arriving from European ports.

Against this state of things, which was unfavorable to American vessels coming from the United States, the Federal Government remonstrated, asking the privilege of the lowest duty for its vessels.

The Secretary of State replied, by his note of April 28, 1828, to the argument presented by the chargé d'affaires of Sweden and Norway at Washington in his note of April 3, 1828, which argument was similar in many respects to the interpretation now given by the United States Government to Article VIII.

The force and justice of Mr. Clay's argument seemed to the Government of the King to be of such a nature as to exclude any possibility of a rejoinder, and I can do no better now than to make use of Mr. Clay's own words in support of the present claim of my Government.

(Here follows a lengthy extract from Mr. Clay's note, beginning with the paragraph "The eighth article" and continuing to the end.)

The Government of the King did not even attempt, as I have already had the honor to remark, to refute these arguments of Mr. Clay, but yielded entirely to the opinion of the United States Government, and granted all that the latter asked for, as is shown by the note of Sep-

tember 10, 1828, which was addressed by Count de Wetterstedt to Mr. Appleton.

The Government of the King has thought that the sense of Article VIII can not be better elucidated than by original letters from the very persons who took part in the conclusion of the treaty to which that article belongs.

In concluding this note. I can find no form better adapted to our present solicitation than the one used by Mr. Clay at the close of his note of April 28, 1828, and I shall confine myself to saying that the Government of my august sovereign "hopes to obtain the concurrence of Mr. Bayard and the United States Government in the construction of the treaty which is now submitted."

Be pleased to accept, etc.,

REUTERSKIÖLD.

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[Inclosure 1.]

*Copy of a communication addressed by Baron Stackelberg, chargé d'affaires of the King, to Mr. Clay, Secretary of State of the United States, dated Washington, April* 3, 1828.

The undersigned, chargé d'affaires of His Majesty the King of Sweden and Norway, having had the honor verbally to communicate with his excellency Mr. Clay, Secretary of State of the United States, in relation to the difference of opinion which has arisen concerning the proper application of the text of Article VIII of the treaty of commerce recently concluded between His Majesty the King of Sweden and Norway and the United States of America, has the honor, by order of his Government, to address the present note to his excellency the Secretary of State.

Article VIII of the treaty reads as follows:

"The two high contracting parties engage not to impose upon the navigation between their respective territories, in the vessels of either, any tonnage or other duties, of any kind or denomination, which shall be higher or other than those which shall be imposed on every other navigation except that which they have reserved to themselves, respectively, by the sixth article of the present treaty."

Basing his action on this article, Mr. Appleton, chargé d'affaires of the United States of America near His Majesty the King, claims for American commerce between the United States and Sweden and Norway the privilege of the lowest rate of tonnage duties, in case the latter are not uniform for all navigations, but are regulated according to localities and the length of the voyages; he excepts only trade * between Sweden and Norway.

Tonnage duties are uniform in Sweden for all arrivals of vessels, and for all distances; this is not, however, the case in Norway. The list of that country contains the following classification: (1) Vessels coming from all places outside of Europe, excepting the Mediterranean, pay per ton (commerce-læst) if they are laden, 1 specie 11 skillings, and if they are in ballast or are laden below one-fourth of their capacity, 66 skillings. (2) Vessels from the Mediterranean, in which category are comprised all ports that the vessel can not reach, and from which it can not come otherwise than by passing through the Strait of Gibraltar, pay, if they are laden, 105 skillings per ton, and if in ballast or laden below one-fourth of their capacity, 53 skillings. (3) Vessels coming from all European ports, not including those of No. 2, and excepting the ports of Sweden, when Swedish or Norwegian vessels go thither or return therefrom, pay, per ton, if laden, 53 skillings, and if in ballast or laden below one-fourth of their capacity, 26 skillings species. It thus appears that, if this privilege were to be allowed, American vessels would pay less than those of Norway, which certainly can not have been the intention of the negotiators when the article in question was inserted in the treaty, since the system of equality with the natives forms the general basis of the treaty, and is, at the same time, derived from the immutable rules of justice. It also seems that the sense and purpose of Article VIII of the treaty is to furnish a guaranty against any increase of tonnage duties to the detriment of the commerce concerned. The words on every other navigation have reference solely to another foreign navigation, and consequently the article in question made provision for the two following cases only: First, that a Swedish or Norwegian vessel going to America or returning therefrom should be subjected to the

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*The original has "le commerce interlope;" this term is properly used of illicit trade, which sense does not seem admissible here.

same tonnage duties as an American vessel going to Sweden or Norway and returning to the United States, and second, that no other foreign vessel, engaged in the same trade and sailing by the same route (exerçant la même navigation), should obtain more favorable tonnage duties either in Sweden and Norway or in the United States. The undersigned believes that every necessary guaranty is shown by the foregoing statement to exist, in point of fact, for American commerce, without the necessity of claiming any exclusive advantage on the ground of Article VIII, even at the expense of Norwegian citizens, under a forced interpretation of the sense of that article; he therefore trusts that his excellency the Secretary of State will think proper to consider Article VIII of the treaty in the sense in which the undersigned has had the honor to present it.

The undersigned has the honor, etc.,

STACKELBERG.

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[Inclosure 2.]

*Mr. Clay to Baron Stackelberg, April 28, 1828.*

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of the Baron de Stackelberg, under date of the 3d instant, in relation to the construction of the eighth article of the treaty of commerce lately concluded between His Majesty the King of Sweden and Norway and the United States, respecting which a difference of opinion appears to have arisen at Stockholm between the Swedish Government and Mr. Appleton, chargé d'affaires of the United States. The President has given attentive consideration, the result of which the undersigned is now charged to communicate to Baron Stackelberg.

It seems that a different principle regulates the tonnage duty imposed in the ports of Norway from that which prevails in those of Sweden. According to that of the former it is not a uniform rate, applicable to the navigation of all countries, but is graduated by the distances of commercial States from Norway, those paying most which are most remote. This is a peculiar mode of levying the duty, to which the practice of no other country is known to conform. It is worthy of consideration, whether, if any difference at all ought to be made in the rate of duty, a rule directly the reverse of that of Norway would not be more expedient and equitable. States situated remotely from each other labor under a great disadvantage in their commercial intercourse from the space which separates them. It increases the charges on the objects of their commercial exchanges, and consequently lessens the mutual consumption of their respective commodities. Ought this disadvantage to be augmented by an increase of tonnage or any other duty? Long voyages are favorable to the acquisition of skill in mariners, an important object with maritime powers. By taxing higher either the vessel or the cargo employed in those voyages they are discouraged. But these considerations belong exclusively to the wisdom of Norway; the United States are only concerned in the just interpretation and fair execution of the existing treaty.

The eighth article stipulated that the two high contracting parties shall not impose upon the navigation between their respecting territories, in the vessels of either, any tonnage or other duties of any kind or denomination which shall be higher or other than those which shall be imposed on every other navigation, except that which they have reserved to themselves, respectively, by the sixth article of the treaty. The reservation in that article is of the coastwise navigation and that between the ports of Sweden and Norway, and, consequently, does not affect the question under consideration.

It is difficult to conceive any language more explicit than that which is employed in the eighth article. It expressly forbids either party from imposing on the vessels of the other any tonnage or other duties of any kind or denomination higher or other than those which shall be imposed on every other navigation, with the exception which has been stated. This language excludes altogether the office of interpretation, which can not make the stipulation clearer than the words plainly import. It leaves the parties but one inquiry to make, which is into the state of their respective laws imposing tonnage or other duties. According to the laws of the United States, of which the treaty now forms one, a Swedish or Norwegian vessel, whether coming from the Mediterranean, from the ports of any parts of Europe, or from those of any other portion of the globe, with the exception contained in the sixth article, is liable to pay no tonnage or other duties higher or other than those which an American vessel, or any foreign vessel, coming from the same places is chargeable with. But according to the laws of Norway, as stated by Baron Stackelberg, American vessels clearing from the United States for the ports of Norway are liable on entry to pay, if loaded, one species eleven schellings per ton, whilst vessels entering the ports of Norway from

all parts of Europe except the Mediterranean are charged only with fifty-three schellings per ton if loaded. In other words, American vessels are bound to pay in the ports of Norway both other and higher duties than the vessels entering the same ports from all parts of Europe. This condition of the laws of Sweden would seem to require that they should be altered so as to place the navigation of the United States on the footing which the treaty contemplated.

Baron Stackelberg argues that the object of the treaty was merely to place the vessels of the United States and those of Sweden and Norway, reciprocally, in their respective ports, on the same equal footing in regard to duties, and that this object is accomplished by the graduated tariff of Norway, since no higher or other duties are exacted from an American vessel than from a Norwegian vessel, when both vessels enter from the same place. That is the object of the second article of the treaty, and Baron Stackelberg would be right if there were no other articles in it. But the eighth article of the treaty was inserted for another and distinct purpose, which is to restrain either party from demanding higher or other tonnage duties from the vessels of the other than those which should be imposed on every other navigation.

It is said that the view now presented of the eighth article would have the effect of compelling a Norwegian vessel to pay a higher duty than an American vessel. This effect would not result from the treaty, but from the law of Norway; and the obvious remedy is a modification of the law so as to adapt it to the provisions of the treaty. The laws of the United States, if they were to remain unaltered, would, also, create a different rule for the vessels of Norway from that which is applicable to the vessels of the United States. But the United States, always faithful to their national engagements, never fail to accommodate their legislation to the obligations which those engagements import. The Government of the United States does not desire that American vessels should pay, in the ports of Norway, less tonnage duties than Norwegian vessels, but it does expect, and thinks that it has a right to insist, that the vessels of the United States shall not pay, in those ports, higher or other duties than the vessels of Norway or any other navigation, with the exception contained in the sixth article.

If it were necessary, the view now taken of the eighth article of the treaty might be forfeited by considerations drawn from other parts of the same instrument. It is stipulated, for example, in the ninth article that no duties of any kind or denomination shall be levied upon the products of the soil or the industry of the respective countries than such as are levied upon similar products of any other country. The object of this stipulation was to secure in the consumption of the respective countries an equality in the competition. But if a vessel laden with the products of the United States is burdened on her entry into the ports of Norway with higher duties than a vessel laden with similar products and entering the same ports from any part of Europe, that equality is as much disturbed in effect as if the unequal imposition were directly upon the cargo instead of the vehicle which transports it.

The undersigned hopes to obtain the concurrence of Baron Stackelberg and his Government in the construction of the treaty which is now submitted, and, in the mean time, requests him to accept assurances of the high consideration which the undersigned entertains for him.

H. CLAY.

DEPARTMENT OF STATE,
*Washington, 28th April,* 1828.

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[Inclosure 3.]

*Copy of a communication addressed by the minister of foreign affairs to Mr. Appleton, under date of Stockholm, September* 10, 1828.

I communicated, without delay, to the competent Norwegian authorities the communication addressed by you to me, sir, under date of the 7th of July last, and I now hasten to inform you that, in obedience to the King's command, the custom-houses in Norway have been instructed, by a circular dated August 9, to refund to United States vessels, when they come directly from said States, or sail thither directly from Norway, the difference between the amount of tonnage duties computed according to schedule L^a. A. of the law of August 7, 1827, and that established by schedule L^a. C.

In accordance with this principle, the custom-house at Bergen has been instructed to refund to the firm of Herman D. Janson & Son, of that city, the agents of the American vessel *Magoon*, the amount of tonnage duties paid in April last for the said vessel in excess of what is required by the aforementioned schedule L^a. C.

CT. DE WETTERSTEDT.

No. 37.

*Mr. Bayard to Mr. Fairchild.*

Confidential.] DEPARTMENT OF STATE,
*Washington, June* 2, 1887.

SIR: Referring to correspondence heretofore had with your Department, touching the claim of certain foreign Governments to enjoy in the maritime intercourse between their countries and the United States, and under cover of treaty provisions asserted to meet the case, all the advantages of the reduction of tonnage dues provided in the shipping acts of 1884 and 1886, I have the honor to hand you herewith printed copies of correspondence lately had with the Government of Sweden and Norway on the subject of the especial claim put forth by that Government under its treaties with the United States and particularly under article 8 of the treaty of 1827.

This correspondence discloses the fact that in 1828, the situation being apparently reversed, the Government of the United States claimed from Sweden and Norway the enjoyment for vessels of the United States proceeding thither from the United States of certain reductions of tonnage dues provided by the legislation of Norway for vessels entering the ports of that country from Mediterranean ports, and that the demand of Mr. Clay under the terms of the said article 8 was then assented to and a refund of duties ordered in favor of American vessels affected by the Norwegian tonnage discrimination.

The fact that our vessels then enjoyed a pecuniary advantage claimed seems to estop the Government of the United States, in honor, from further contesting the point and to render necessary provision for extending forthwith to vessels of Sweden and Norway coming to the United States from Sweden and Norway the reduction of tonnage claimed, being the 3-15 cent rate. Such action will also involve application to Congress to repay the tonnage in excess of this rate charged on such Swedish and Norwegian vessels, since the fourteenth article of the shipping act of 1884 took effect, and simple equity would require that Congress also be asked to make provision for the past and present relief of vessels under the United States flag, so that the treaty engagement with Sweden and Norway may not continue to work a positive discrimination against home vessels and in favor of foreign shipping.

Before making final answer to the Swedish and Norwegian minister I beg you to inform me whether your Department is prepared to put into operation at once the 3-15 cent rate in respect of the Swedish and Norwegian vessels making the voyage stated. To aid your judgment I submit, *confidentially*, a draught-copy of my proposed reply to the Swedish and Norwegian minister's note.

I have, etc.,

T. F. BAYARD.

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No. 38.

*Mr. Fairchild to Mr. Bayard.*

Confidential.] TREASURY DEPARTMENT,
*June* 20, 1887. (Received June 21.)

SIR: I have the honor to acknowledge the receipt of your letter dated the 2d instant, marked "Confidential," with which you submitted a draught-copy of a reply proposed to be made by you to a claim by the

Government of Sweden and Norway for the application of article 8 of the treaty of 1827 to vessels navigating between the United States and those countries, in such a manner as to exempt said vessels from the payment of tonnage dues in the United States at a higher rate than that imposed by law on vessels from the West Indies, etc.

The law making the decision of the Commissioner of Navigation "final" on "all questions" relating to the collection of tonnage tax, and to the refund of such tax, when collected erroneously or illegally, the matter has been submitted to that officer, and I transmit herewith a report in which he expresses the opinion that, under the existing legislation, there is no authority for reducing the rate to 3-15 cents per ton, as requested by the Government of Sweden and Norway.

The inclosures of your letter are returned herewith.

Respectfully, yours,

C. S. FAIRCHILD,
*Secretary.*

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*Mr. Morton to Mr. Fairchild.*

Confidential.] TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
*Washington, D. C., June 20, 1887.*

SIR: I have the honor to acknowledge the receipt of the letter from the Secretary of State, dated the 2d instant, marked "Confidential," in which he refers to previous correspondence with the Treasury Department touching the claim of certain foreign governments under treaty provisions to the benefit of the reduced tonnage tax specified in the acts of June 26, 1884, and June 19, 1886.

This communication relates especially to a claim by Sweden and Norway that vessels proceeding from that country to the United States should be admitted to entry in this country on the same terms as vessels proceeding to the United States from the West Indies, etc.

My opinion upon the matter is sought for the reason that "on all questions relating to the collection of tonnage tax and to the refund of such tax when collected erroneously or illegally" the act of July 5, 1884, makes the decision of the Commissioner of Navigation "final."

It appears that the merits of the claim, so far as it is founded on a just and strict construction of the laws and of the treaty bearing upon the matter, are not acknowledged by the Secretary of State, but that in view of the action taken by the Government of Sweden and Norway on a similar claim made by Mr. Clay in behalf of the United States, he feels that the Government of the United States is in honor bound to take favorable action. He therefore requests specific information whether the Treasury Department is prepared to put into operation at once the 3-15 cent rate in respect to the vessels of Sweden and Norway coming from those countries.

In imposing the tax which said Government now seeks to have reduced it seems obvious that Congress either was not aware of the provisions of article 8 of the treaty of 1827 or did not construe them in accordance with the claim now made by the Government of Sweden. The tax complained of was imposed, therefore, upon all vessels which should be entered in the United States from any foreign ports, with certain exceptions, not pertinent in the consideration of this case. The language of the statutes shows it to have been the intention of Congress that no exception should be made to said provisions by reason of any previous law or treaty, except as mentioned below. Under the provisions of the law, if it shall be shown that action in regard to the matter can be taken in accordance with the proviso of section 14 of the act of June 26, 1884, as amended by section 11 of the act of June 19, 1886, and in accordance with the offer to the Government of Sweden, made in the proposed draught which the Secretary of State inclosed for your information, Swedish and Norwegian vessels, as well as others, could be relieved of the tax. Should the foreign government accede to that proposal, immediate action could be taken in the manner prescribed by law to relieve its vessels from tonnage dues when arriving in the United States from those countries, without awaiting further action by Congress as to cases arising thenceforth.

I have to state, however, that in the absence of further action by Sweden and Norway of the character alluded to above, I am satisfied that there is no legal authority to prescribe the collection of the 3-15 cent rate in the case of vessels from those countries, and that the specific inquiry of the Secretary of State upon that point must be

answered in the negative, the legislation fixing a higher rate of dues being absolute, later than the treaty, and therefore paramount.

It would undoubtedly be proper for this department to co-operate with the Department of State, if necessary, in any effort that may be made to secure legislation authorizing compliance with the treaty as now construed, or providing for a refund of the moneys claimed to have been already erroneously collected, although it is presumed that the tax was paid from freights increased to meet the exaction of the dues.

The inclosures of the letter from the Secretary of State are returned herewith.

Respectfully, yours,

C. B. MORTON,
*Commissioner.*

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No. 39.

*Mr. Woxen to Mr. Bayard.*

WASHINGTON, *November* 10, 1888.

SIR: I have the honor, by order of my Government, to call your attention to the following change recently made in Norway in the provisions regulating the levying of tonnage dues. The tonnage duty imposed on vessels carrying merchandise to or from Norway is, as fixed by the customs tariff, 80 öre per ton. The ninth paragraph, Schedule C of the customs tariff, provided that the duty should be paid only at the rate of 40 öre per ton for vessels arriving from or bound to any place on the shores of the Arctic Ocean or the White Sea. In the tariff promulgated on the 30th of June last, the ninth paragraph, Schedule C, was amended so as to read as follows: "The duty shall be paid only at the rate of 40 öre per ton when the vessel arrives from or is bound to Hammerfest, Vardo, or Vadso."

The words in which this paragraph formerly was couched granted the benefit of the reduced duty to all vessels arriving from or bound to the ports of the Arctic Ocean and the White Sea. Though in fact the only navigation which shared in the reduction of the tonnage duty to 40 öre was that engaged in the insignificant coasting trade of these boreal regions, where from time immemorial no distinction of nationality ever was made, the Royal Government thought that the wording of the paragraph might appear to the Government of the United States as not being in conformity with the eighth article of the treaty of 1827 between the United Kingdoms and the United States. The Government of the United States might perhaps contend that any vessel arriving from a Russian port on the White Sea at a Norwegian port south of the Arctic region (which, it may be remarked in passing, never happened and probably in the future only will happen very rarely) would have paid only 40 öre per ton, while any vessel arriving from the United States at the same port would be liable to pay 80 öre. It is true that the hypothesis was not probable, but it was always possible.

Therefore the Royal Government deemed it necessary to cause the language of the paragraph to be changed in order to remove even the slightest appearance of non-conformity to the stipulations of the treaty of 1827. A motion to that effect was presented by the Royal Government to the Norwegian Storthing (Diet), which immediately approved it.

As you will perceive, the new wording of the paragraph grants the reduction of the tonnage duty to 40 öre per ton to all vessels arriving at or departing from Hammerfest, Vardo, or Vadso. The privilege of which any vessel arriving from a Russian Arctic port at a Norwegian port south of the Arctic Ocean (if this fact happened) might have

availed itself has been eliminated by the new wording, so that even in form the provisions in force in Norway are now, as they always have been in fact, in strict conformity with the treaty regulations.

The Royal Government entertains the hope that the United States Government will duly appreciate its solicitude for the careful observance of the treaty obligations, as shown by this change in the Norwegian tonnage-duty regulations. Although the Royal Government was convinced that in fact by the provision abrogated there was not granted to other vessels any important advantage in which American vessels did not share (this provision only being profitable to the intercourse in the Arctic waters), the Government, as soon as it became aware that the terms of the paragraph above mentioned could appear to be in variance with the treaty of 1827, hastened, without awaiting any reclamation from the United States Government, to remove even the slightest appearance of a discrimination.

While bringing the foregoing to your knowledge, I am asked to invite your attention again to the conflict which, in the opinion of the Royal Government, exists between the eighth article of the treaty of 1827 and the act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes, approved June 26, 1884, and which is set forth in several notes from this legation, the last being the note of Mr. de Reuterskiöld of March 9, 1887. As this conflict, as you verbally stated to Mr. de Reuterskiöld, can only be settled by the interference of the law-making power, I am further asked, now that Congress will soon resume its labors, to solicit your co-operation to that effect, and to express the hope that you will kindly request the Chief Magistrate of the nation to be pleased, in his annual message, to advocate such legislative measures as may be deemed proper to settle the question.

Accept, sir, etc.,

WOXEN.

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No. 40.

*Mr. Bayard to Mr. Woxen.*

DEPARTMENT OF STATE,
*Washington, December* 6, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 10th ultimo again inviting the attention of the Department to the conflict which, in the opinion of the Royal Government, exists between the eighth article of the treaty of 1827, between the United States and Sweden and Norway, and certain provisions of the shipping act of June 26, 1884, etc., and to say in reply that the matter to which your note relates will soon be made the subject of a communication by the President to Congress.

Accept, sir, etc.,

T. F. BAYARD.

## PART II.—CORRESPONDENCE RELATIVE TO THE ABOLITION OF TONNAGE DUES.

### No. 41.

*Mr. Bayard to United States ministers.*

Circular.] DEPARTMENT OF STATE,
*Washington, July* 9, 1887.

SIR: In the act of Congress, approved June 19, 1886, entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," the following provisions are found:

SEC. 11. That section fourteen of "An act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes," approved June twenty-sixth, eighteen hundred and eighty-four, be amended so as to read as follows:

"SEC. 14. That in lieu of the tax on tonnage of thirty cents per ton per annum imposed prior to July first, eighteen hundred and eighty-four, a duty of three cents per ton, not to exceed in the aggregate fifteen cents per ton in any one year, is hereby imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or the Sandwich Islands, or Newfoundland; and a duty of six cents per ton, not to exceed thirty cents per ton per annum, is hereby imposed at each entry upon all vessels which shall be entered in the United States from any other foreign ports, not, however, to include vessels in distress or not engaged in trade: *Provided*, That the President of the United States shall suspend the collection of so much of the duty herein imposed, on vessels entered from any foreign port, as may be in excess of the tonnage and light-house dues, or other equivalent tax or taxes imposed in said port on American vessels by the Government of the foreign country in which such port is situated, and shall, upon the passage of this act, and from time to time thereafter as often as it may become necessary by reason of changes in the laws of the foreign countries above mentioned, indicate by proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage duty, if any, to be collected under such suspension: *Provided further*, That such proclamation shall exclude from the benefits of the suspension herein authorized the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues, or duties imposed on the vessels of the country in which such port is situated, or on the cargoes of such vessels; and sections forty-two hundred and twenty-three and forty-two hundred and twenty-four, and so much of section forty-two hundred and nineteen of the Revised Statutes as conflicts with this section, are hereby repealed."

SEC. 12. That the President be, and hereby is, directed to cause the Governments of foreign countries which, at any of their ports, impose on American vessels a tonnage tax or light-house dues, or other equivalent tax or taxes, or any other fees, charges, or dues, to be informed of the provisions of the preceding section, and invited to co-operate with the Government of the United States in abolishing all light-house dues, tonnage taxes, or other equivalent tax or taxes on, and also all other fees for official services to, the vessels of the respective nations employed in the trade between the ports of such foreign country and the ports of the United States.

SEC. 17. That whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coastwise trade excepted) shall deny to any vessels of the United States any of the commercial privileges accorded to national vessels in the harbors, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, is hereby authorized to issue his proclamation excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such

country; and on and after the date named in such proclamation for it to take effect, if the master, officer, or agent of any vessel of such foreign country excluded by said proclamation from the exercise of any commercial privileges shall do any act prohibited by said proclamation in the ports, harbors, or waters of the United States for or on account of such vessel, such vessel, and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this act, or aiding and abetting any other person in such opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years.

Copies of the act above quoted, and of the prior act of June 26, 1884, are inclosed herewith for your information. Circumstances having heretofore delayed the extension of the general invitation authorized by section 12 of the act of 1886, as above quoted, you are now instructed to invite the Government of ——— to co-operate with the Government of the United States toward the contemplated ends.

It will be seen that the provisions of the sections above quoted are broad enough to cover either a reduction or a complete abolition, by reciprocal action, of tonnage and equivalent charges on navigation; and it is open to any foreign country, in all or any of whose ports a less charge is made than that now imposed in the ports of the United States, to obtain forthwith a reduction of the charge in the United States, on vessels coming from such port or ports, to an equality with that levied in the port or ports designated. An example of this is furnished by the arrangement lately entered into between the Government of the United States and that of The Netherlands, as shown by the inclosed copy of the President's proclamation of April 22, 1887, whereby complete exemption from tonnage dues is secured to all vessels, of whatever nationality, entering ports of the United States from the ports of The Netherlands in Europe, or from certain named ports of the Dutch East Indies.

It is to be observed that the invitation herein contained is extended equally to all countries, both those having ports within the geographical zone to which, under the shipping acts of 1884 and 1886, the rate of 3-15 cents per ton applies and those which have no ports within that zone, and to which the rate of 6.30 cents per ton now applies. The rate of 3-15 cents per ton was geographical and involved no test of flag. The object and intent of the present invitation is to deal, on the basis of reciprocity, with countries *as nationalities*, whether situated within or without the geographical limits referred to.

Besides extending the invitation herein authorized, you are also instructed to ascertain whether, in the ports of ———, or in any dependency thereof, any discrimination exists against vessels of the United States as compared with the vessels of ——— (other than those engaged in the coasting or colonial trade) or the vessels of any third country.

If such discrimination be found to exist, its precise nature and extent should be reported, when this Government will be in a position to determine how far the commerce between the United States and the ports of such country (if such ports are found within the defined geographical limits), or how far the vessels of such country (if it be outside of the geographical limits aforesaid), are to be restricted in or excluded from the privileges created, either under the express provisions of the shipping acts of 1884 and 1886, or under the special arrangements of reciprocity effected under the authorizations of those acts and proclaimed by the President.

In communicating the invitation herein contained you will convey the fullest assurance to the minister for foreign affairs of its entire

friendliness, and the desire of the United States to treat the commerce and flag of ——— on the footing of the most complete reciprocity in those matters to which the invitation relates.

I am, sir, your obedient servant,

T. F. BAYARD,
*Secretary of State.*

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[Inclosure 1.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

Whereas satisfactory proof has been given to me by the Government of The Netherlands, that no light-house and light dues, tonnage dues, or beacon and buoy dues are imposed in the ports of the Kingdom of The Netherlands; that no other equivalent tax of any kind is imposed upon vessels in said ports, under whatever flag they may sail; that vessels belonging to the United States of America, and their cargoes, are not required, in The Netherlands, to pay any fee or due of any kind, or nature, or any import due higher or other than is payable by vessels of The Netherlands or their cargoes; that no export duties are imposed in The Netherlands; and that in the free ports of the Dutch East Indies, to wit: Riouw (in the island of Riouw), Pabean, Sangrit, Loloan, and Tamboekoes (in the island of Bali), Koepang (in the island of Timor), Makassar, Menado, Kema, and Gorontalo (in the island of Celebes), Amboina, Saparoa, Banda, Ternate, and Kajeli (in the Moluccas), Oleh-leh and Bengkalis (in the island of Sumatra), vessels are subjected to no fiscal tax, and no import or export duties are there levied:

Now, therefore, I, Grover Cleveland, President of the United States of America, by virtue of the authority vested in me by section 11 of the act of Congress, entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," approved June nineteenth, one thousand eight hundred and eighty-six, do hereby declare and proclaim that from and after the date of this my Proclamation shall be suspended the collection of the whole of the duty of six cents per ton, not to exceed thirty cents per ton per annum (which is imposed by said section of said act) upon vessels entered in the ports of the United States from any of the ports of the Kingdom of The Netherlands in Europe, or from any of the above-named free ports of the Dutch East Indies:

*Provided*, That there shall be excluded from the benefits of the suspension hereby declared and proclaimed the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues or duties imposed on the vessels of such foreign country, or their cargoes, or of the fees, dues, or duties imposed on the vessels of the country in which are the ports mentioned in this Proclamation, or the cargoes of such vessels.

And the suspension hereby declared and proclaimed shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and their cargoes, shall be continued in the said ports of the Kingdom of The Netherlands in Europe and the said free ports of the Dutch East Indies, and no longer.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-second day of April, in the year of our Lord one thousand eight hundred and eighty-seven, and of the independence of the United States the one hundred and eleventh.

[SEAL.] GROVER CLEVELAND.

By the President,

T. F. BAYARD,
*Secretary of State.*

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[Inclosure 2.]

(PUBLIC—No. 67.)

AN ACT to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the last clause of section forty-one hundred and thirty-one of the Revised Statutes be amended so as to read as follows:

"*All the officers of vessels* of the United States shall be citizens of the United States,

except that in cases where, on a foreign voyage, or on a voyage from an Atlantic to a Pacific port of the United States, any such vessel is for any reason deprived of the services of an officer below the grade of master, his place, or a vacancy caused by the promotion of another officer to such place, may be supplied by a person not a citizen of the United States until the first return of such vessel to its home port; and such vessel shall not be liable to any penalty or penal tax for such employment of an alien officer."

SEC. 2. That section forty-five hundred and eighty of the Revised Statutes be amended so as to read as follows:

"SEC. 4580. Upon the application of the master of any vessel to a consular officer to discharge a seaman, or upon the application of any seaman for his own discharge, if it appears to such officer that said seaman has completed his shipping agreement, or is entitled to his discharge under any act of Congress or according to the general principles or usages of maritime law as recognized in the United States, such officer shall discharge such seaman, and require from the master of said vessel, before such discharge shall be made, payment of the wages which may then be due said seaman; but no payment of extra wages shall be required of any consular officer upon such discharge of any seaman except as provided in this act."

SEC. 3. That section forty-five hundred and eighty-three of the Revised Statutes be amended so as to read as follows:

"SEC. 4583. Whenever on the discharge of a seaman in a foreign country, on his complaint that the voyage is continued contrary to agreement, the consular officer shall be satisfied that such voyage has been designedly and unnecessarily prolonged in violation of the articles of shipment, or whenever a seaman is discharged by a consular officer in consequence of any hurt or injury received in the service of the vessel, such consular officer shall require the payment by the master of one month's wages for such seaman over and above the wages due at the time of discharge."

SEC. 4. That section forty-five hundred and sixty-one of the Revised Statutes be amended so as to read as follows:

"SEC. 4561. The inspectors in their report shall also state whether, in their opinion, the vessel was sent to sea unsuitably provided in any important or essential particular, by neglect or design, or through mistake or accident; and in case it was by neglect or design, and the consular officer approves of such finding, he shall discharge such of the crew as request it, and shall require the payment by the master of one month's wages for each seaman over and above the wages then due. But if, in the opinion of the inspectors, the defects or deficiencies found to exist have been the result of mistake or accident, and could not, in the exercise of ordinary care, have been known and provided against before the sailing of the vessel, and the master shall, in a reasonable time, remove or remedy the causes of complaint, then the crew shall remain and discharge their duty.

SEC. 5. That section forty-five hundred and eighty-two of the Revised Statutes be amended so as to read as follows:

"SEC. 4582. Whenever a vessel of the United States is sold in a foreign country, and her company discharged, it shall be the duty of the master to produce to the consular officer the certified list of his ship's company, and also the shipping articles, and to pay to said consular officer for every seaman so discharged one month's wages over and above the wages which may then be due to such seaman; but in case the master of the vessel so sold shall, with the assent of said seaman, provide him with adequate employment on board some other vessel bound to the port at which he was originally shipped, or to such other port as may be agreed upon by him, then no payment of extra wages shall be required."

SEC. 6. That section forty-six hundred of the Revised Statutes be amended so as to read as follows:

"SEC. 4600. It shall be the duty of consular officers to reclaim deserters and discountenance insubordination by every means within their power, and where the local authorities can be usefully employed for that purpose, to lend their aid and use their exertions to that end in the most effectual manner. In all cases where deserters are apprehended the consular officer shall inquire into the facts; and if he is satisfied that the desertion was caused by unusual or cruel treatment, he shall discharge the seaman, and require the master of the vessel from which such seaman is discharged to pay one month's wages over and above the wages then due; and the officer discharging such seaman shall enter upon the crew-list and shipping articles the cause of discharge, and the particulars in which the cruelty or unusual treatment consisted, and the facts as to his discharge or re-engagement, as the case may be, and subscribe his name thereto officially."

SEC. 7. That section forty-five hundred and eighty-one of the Revised Statutes be amended so as to read as follows:

"SEC. 4581. If any consular officer, when discharging any seaman, shall neglect to require the payment of and collect the arrears of wages and extra wages required to be paid in the case of the discharge of any seaman, he shall be accountable to the

United States to the full amount thereof. If any seaman, after his discharge, shall have incurred any expense for board or other necessaries at the place of his discharge, before shipping again, or for transportation to the United States, such expense shall be paid out of the arrears of wages and extra wages received by the consular officer, which shall be retained for that purpose, and the balance only paid over to such seamen."

SEC. 8. That section forty-five hundred and eighty-four of the Revised Statutes be hereby repealed.

SEC. 9. That section forty-five hundred and seventy-eight of the Revised Statutes be amended so as to read as follows:

"SEC. 4578. All masters of vessels of the United States, and bound to some port of the same, are required to take such destitute seamen on board their vessels, at the request of consular officers, and to transport them to the port in the United States to which such vessel may be bound, on such terms, not exceeding ten dollars for each person for voyages of not more than thirty days, and not exceeding twenty dollars for each person for longer voyages, as may be agreed between the master and the consular officer; and said consular officer shall issue certificates for such transportation, which certificates shall be assignable for collection. If any such destitute seaman is so disabled or ill as to be unable to perform duty, the consular officer shall so certify in the certificate of transportation, and such additional compensation shall be paid as the First Comptroller of the Treasury shall deem proper. Every such master who refuses to receive and transport such seamen on the request or order of such consular officer shall be liable to the United States in a penalty of one hundred dollars for each seaman so refused. The certificate of any such consular officer, given under his hand and official seal, shall be presumptive evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty. No master of any vessel shall, however, be obliged to take a greater number than one man to every one hundred tons burden of the vessel on any one voyage."

SEC. 10. That it shall be, and is hereby, made unlawful in any case to pay any seaman wages before leaving the port at which such seaman may be engaged in advance of the time when he has actually earned the same, or to pay such advance wages to any other person, or to pay any person, other than an officer authorized by act of Congress to collect fees for such service, any remuneration for the shipment of seamen. Any person paying such advance wages or such remuneration shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not less than four times the amount of the wages so advanced or remuneration so paid, and may be also imprisoned for a period not exceeding six months, at the discretion of the court. The payment of such advance wages or remuneration shall in no case, except as herein provided, absolve the vessel, or the master or owner thereof, from full payment of wages after the same shall have been actually earned, and shall be no defense to a libel, suit, or action for the recovery of such wages: *Provided*, That this section shall not apply to whaling-vessels: *And provided further*, That it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages which he may earn to his wife, mother, or other relative, but to no other person or corporation. And any person who shall falsely claim such relationship to any seaman in order to obtain wages so allotted shall, for every such offense, be punishable by a fine of not exceeding five hundred dollars, or imprisonment not exceeding six months, at the discretion of the court. This section shall apply as well to foreign vessels as to vessels of the Unnited States; and any foreign vessel the master, owner, consignee, or agent of which has violated this section, or induced or connived at its violation, shall be refused a clearance from any port of the United States.

SEC. 11. That every vessel mentioned in section forty-five hundred and sixty-nine of the Revised Statutes shall also be provided with a slop-chest, which shall contain a complement of clothing for the intended voyage for each seaman employed, including boots or shoes, hats or caps, under clothing and outer clothing, oiled clothing, and everything necessary for the wear of a seaman; also a full supply of tobacco and blankets. Any of the contents of the slop-chest shall be sold, from time to time, to any or every seaman applying therefor, for his own use, at a profit not exceeding ten per centum of the reasonable wholesale value of the same at the port at which the voyage commenced. And if any such vessel is not provided, before sailing, as herein required, the owner shall be liable to a penalty of not more than five hundred dollars. The provisions of this section shall not apply to vessels plying between the United States and the Dominion of Canada, Newfoundland, the Bermuda Islands, the Bahama Islands, the West Indies, Mexico, and Central America.

SEC. 12. That on and after July first, eighteen hundred and eighty-four, no fees named in the tariff of consular fees prescribed by order of the President shall be charged or collected by consular officers for the official services to American vessels and seamen. Consular officers shall furnish the master of every such vessel with an itemized statement of such services performed on account of said vessel, with the fee so prescribed for each service, and make a detailed report to the Secretary of the

Treasury of such services and fees, under such regulations as the Secretary of State may prescribe; and the Secretary of the Treasury shall allow consular officers who are paid in whole or in part by fees such compensation for said services as they would have received prior to the passage of this act: *Provided*, That such services, in the opinion of the Secretary of the Treasury, have been necessarily rendered; and a sum sufficient for the payment of such compensation, when thus adjusted by the Secretary of the Treasury, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 13. That section forty-two hundred and thirteen of the Revised Statutes be amended so as to read as follows:

"SEC. 4213. It shall be the duty of all masters of vessels for whom any official services shall be performed by any consular officer, without the payment of a fee, to require a written statement of such services from such consular officer, and, after certifying as to whether such statement is correct, to furnish it to the collector of the district in which such vessels shall first arrive on their return to the United States; and if any such master of a vessel shall fail to furnish such statement, he shall be liable to a fine of not exceeding fifty dollars, unless such master shall state under oath that no such statement was furnished him by said consular officer. And it shall be the duty of every collector to forward to the Secretary of the Treasury all such statements as shall have been furnished to him, and also a statement of all certified invoices which shall have come to his office, giving the dates of the certificates, and the names of the persons for whom and of the consular officer by whom the same were certified."

SEC. 14. That in lieu of the tax on tonnage of thirty cents per ton per annum heretofore imposed by law, a duty of three cents per ton, not to exceed in the aggregate fifteen cents per ton in any one year, is hereby imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the Sandwich Islands, or Newfoundland; and a duty of six cents per ton, not to exceed thirty cents per ton per annum, is hereby imposed at each entry upon all vessels which shall be entered in the United States from any other foreign ports: *Provided*, That the President of the United States shall suspend the collection of so much of the duty herein imposed, on vessels entered from any port in the Dominion of Canada, Newfoundland, the Bahama Islands, the Bermuda Islands, the West India Islands, Mexico, and Central America down to and including Aspinwall and Panama, as may be in excess of the tonnage and light-house dues, or other equivalent tax or taxes, imposed on American vessels by the Government of the foreign country in which such port is situated and shall upon the passage of this act, and from time to time thereafter as often as it may become necessary by reason of changes in the laws of the foreign countries above mentioned, indicate by proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage duty, if any, to be collected under such suspension. *And provided further*, That all vessels which shall have paid the tonnage tax imposed by section forty-two hundred and nineteen of the Revised Statutes for the current year shall not be liable to the tax herein levied until the expiration of the certificate of last payment of the said tax. And sections forty-two hundred and twenty-three and forty-two hundred and twenty-four, and so much of section forty-two hundred and nineteen of the Revised Statutes as conflicts with this section are hereby repealed.

SEC. 15. Sections forty-five hundred and eighty-five, forty-five hundred and eighty-six, and forty-five hundred and eighty-seven of the Revised Statutes, and all other acts and parts of acts providing for the assessment and collection of a hospital tax for seamen, are hereby repealed, and the expense of maintaining the Marine-Hospital Service shall hereafter be borne by the United States out of the receipts for duties on tonnage provided for by this act; and so much thereof as may be necessary is hereby appropriated for that purpose.

SEC. 16. All articles of foreign production needed, and actually withdrawn from bonded warehouses, for supplies not including equipment of vessels of the United States engaged in the foreign trade, including the trade between the Atlantic and Pacific ports of the United States, may be so withdrawn free of duty, under such regulations as the Secretary of the Treasury may prescribe.

SEC. 17. When a vessel is built in the United States for foreign account, wholly or partly of foreign materials on which import duties have been paid, there shall be allowed on such vessel, when exported, a drawback equal in amount to the duty paid on such materials, to be ascertained under such regulations as may be prescribed by the Secretary of the Treasury. Ten per centum of the amount of such drawback so allowed shall, however, be retained for the use of the United States by the collector paying the same.

SEC. 18. That the individual liability of a ship-owner shall be limited to the proportion of any or all debts and liabilities that his individual share of the vessel bears to the whole; and the aggregate liabilities of all the owners of a vessel on account of

the same shall not exceed the value of such vessel and freight pending: *Provided*, That this provision shall not affect the liability of any owner incurred previous to the passage of this act, nor prevent any claimant from joining all the owners in one action; nor shall the same apply to wages due to persons employed by said ship-owners.

SEC. 19. That a master of a vessel in the foreign trade may engage a seaman at any port in the United States, in the manner provided by law, to serve on a voyage to any port, or for the round trip from and to the port of departure, or for a definite time, whatever the destination. The master of a vessel making regular and stated trips between the United States and a foreign country may engage a seaman for one or more round trips, or for a definite time, or on the return of said vessel to the United States may reship such seaman for another voyage in the same vessel, in the manner provided by law, without the payment of additional fees to any officer for such reshipment or re-engagement.

SEC. 20. That every master of a vessel in the foreign trade may engage any seaman at any port out of the United States, in the manner provided by law, to serve for one or more round trips from and to the port of departure, or for a definite time, whatever the destination; and the master of a vessel clearing from a port of the United States with one or more seamen engaged in a foreign port as herein provided shall not be required to reship in a port of the United States the seamen so engaged, or to give bond, as required by section forty-five hundred and seventy-six of the Revised Statutes, to produce said seamen before a boarding officer on the return of said vessel to the United States.

SEC. 21. That the word "port," as used in sections forty-one hundred and seventy-eight and forty-three hundred and thirty-four of the Revised Statutes, in reference to painting the name and port of every registered or licensed vessel on the stern of such vessel shall be construed to mean either the port where the vessel is registered or enrolled, or the place in the same district where the vessel was built or where one or more of the owners reside.

SEC. 22. That until the provisions of section one, chapter three hundred and seventy-six, of the laws of eighteen hundred and eighty-two, shall be made applicable to passengers coming into the United States by land carriage, said provisions shall not apply to passengers coming by vessels employed exclusively in the trade between the ports of the United States and the ports of the Dominion of Canada or the ports of Mexico.

SEC. 23. That sections thirty-nine hundred and seventy-six and forty-two hundred and three of the Revised Statutes of the United States, and all other compulsory laws and parts of laws that oblige American vessels to carry the mails to and from the United States arbitrarily, or that prevent the clearance of vessels until they shall have taken mail matter on board, be and the same are hereby repealed, but such repeal shall not take effect until the first day of April, eighteen hundred and eighty-five.

SEC. 24. That section twenty-nine hundred and sixty-six of the Revised Statutes be amended by striking out the words "propelled in whole or in part by steam;" so that said section as amended shall read as follows:

"SEC. 2966. When merchandise shall be imported into any port of the United States from any foreign country in vessels, and it shall appear by the bills of lading that the merchandise so imported is to be delivered immediately after the entry of the vessel, the collector of such port may take possession of such merchandise and deposit the same in bonded warehouse; and when it does not appear by the bills of lading that the merchandise so imported is to be immediately delivered, the collector of the customs may take possession of the same and deposit it in bonded warehouse, at the request of the owner, master, or consignee of the vessel, on three days' notice to such collector after the entry of the vessel."

SEC. 25. That section twenty-eight hundred and seventy-two of the Revised Statutes be amended by adding thereto the following:

"When the license to unload between the setting and rising of the sun is granted to a sailing vessel under this section, a fixed, uniform, and reasonable compensation may be allowed to the inspector or inspectors for service between the setting and rising of the sun, under such regulations as the Secretary of the Treasury may prescribe, to be received by the collector from the master, owner, or consignee of the vessel, and to be paid by him to the inspector or inspectors."

SEC. 26. That whenever any fine, penalty, forfeiture, exaction, or charge arising under the laws relating to vessels or seamen has been paid to any collector of customs or consular officer, and application has been made within one year from such payment for the refunding or remission of the same, the Secretary of the Treasury, if on investigation he finds that such fine, penalty, forfeiture, exaction, or charge was illegally, improperly, or excessively imposed, shall have the power, either before or after the same has been covered into the Treasury, to refund so much of such fine, penalty, forfeiture, exaction, or charge as he may think proper from any moneys in the Treasury not otherwise appropriated.

SEC. 27. That section forty-five hundred and one of the Revised Statutes is hereby amended so as to read as follows:

"SEC. 4501. The Secretary of the Treasury shall appoint a commissioner for each port of entry, which is also a port of ocean navigation, and which, in his judgment, may require the same; such commissioner to be termed a shipping commissioner, and may, from time to time, remove from office any such commissioner whom he may have reason to believe does not properly perform his duty, and shall then provide for the proper performance of his duties until another person is duly appointed in his place: *Provided*, That shipping commissioners now in office shall continued to perform the duties thereof until others shall be appointed in their places. Shipping commissioners shall monthly render a full, exact, and itemized account of their receipts and expenditures to the Secretary of the Treasury, who shall determine their compensation, and shall from time to time determine the number and compensation of the clerks appointed by such commissioner, with the approval of the Secretary of the Treasury, subject to the limitations now fixed by law. The Secretary of the Treasury shall regulate the mode of conducting business in the shipping offices to be established by the shipping commissioners as hereinafter provided, and shall have full and complete control over the same, subject to the provisions herein contained; and all expenditures by shipping commissioners shall be audited and adjusted in the Treasury Department in the mode and manner provided for expenditures in the collection of customs. All fees of shipping commissioners shall be paid into the Treasury of the United States and shall constitute a fund which shall be used under the direction of the Secretary of the Treasury to pay the compensation of said commissioners and their clerks and such other expenses as he may find necessary to ensure the proper administration of their duties."

SEC. 28. Before issuing any inspection certificate to any steamer the collector or other chief officer of customs for the port or district shall demand and receive from the owners thereof, as a compensation for the inspection and examinations made for the year, the following sums, in addition to the fees for issuing enrollments and licenses now allowed by law, according to the tonnage of the vessel: For each steam-vessel of one hundred tons or under, ten dollars; and for each and every ton in excess of one hundred tons, five cents, in lieu of the fees now provided by law.

SEC. 29. That section twenty-seven hundred and seventy-six of the Revised Statutes is hereby amended by adding thereto the following:

"*Provided*, That vessels arriving at a port of entry in the United States, laden with coal, salt, railroad-iron, and other like articles in bulk, may proceed to places within that collection district to be specially designated by the Secretary of the Treasury, by general regulations or otherwise, under the superintendence of customs officers, at the expense of the parties interested, for the purpose of unlading cargoes of the character before mentioned."

SEC. 30. All laws and parts of laws in conflict with the provisions of this act are hereby repealed; and this act shall take effect and be in force on and after July first, eighteen hundred and eighty-four.

Approved, June 26, 1884.

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[Inclosure 3.]

(PUBLIC—No. 85.)

AN ACT to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That on and after July first, eighteen hundred and eighty-six, no fees shall be charged or collected by collectors or other officers of customs, or by inspectors of steam-vessels or shipping commissioners, for the following services to vessels of the United States, to wit: Measurement of tonnage and certifying the same; issuing of license or granting of certificate of registry, record, or enrollment, including all indorsements on the same and bond and oath; indorsement of change of master; certifying and receiving manifest, including master's oath, and permit; granting permit to vessels licensed for the fisheries to touch and trade; granting certificate of payment of tonnage dues; recording bill of sale, mortgage, hypothecation, or conveyance, or the discharge of such mortgage or hypothecation; furnishing certificate of title; furnishing the crew-list, including bond; certificate of protection to seamen; bill of health; shipping or discharging of seamen, as provided by title fifty-three of the Revised Statutes and section two of this act; apprenticing boys to the merchant service; inspecting, examining, and licensing steam-vessels, including inspection-certificate and copies thereof; and licensing of master, engineer, pilot, or mate of a vessel; and all provisions of laws authorizing or requiring the collection of fees for such services are repealed, such repeal to take effect July first, eighteen hundred and eighty-six. Collectors or other officers of customs, inspectors of steam-

vessels, and shipping commissioners who are paid wholly or partly by fees shall make a detailed report of such services, and the fees provided by law, to the Secretary of the Treasury, under such regulations as that officer may prescribe; and the Secretary of the Treasury shall allow and pay, from any money in the Treasury not otherwise appropriated, said officers such compensation for said services as each would have received prior to the passage of this act; also such compensation to clerks of shipping commissioners as would have been paid them had this act not passed: *Provided*, That such services have, in the opinion of the Secretary of the Treasury, been necessarily rendered.

SEC. 2. That shipping commissioners may ship and discharge crews for any vessel engaged in the coastwise trade, or the trade between the United States and the Dominion of Canada, or Newfoundland, or the West Indies, or the Republic of Mexico, at the request of the master or owner of such vessel, the shipping and discharging fees in such cases to be one-half that prescribed by section forty-six hundred and twelve of the Revised Statutes, for the purpose of determining the compensation of shipping commissioners.

SEC. 3. That section ten of the act entitled "An act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes," approved June twenty-sixth, eighteen hundred and eighty-four, be amended by striking out the words "That it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages which he may earn to his wife, mother, or other relative, but to no other person or corporation," and inserting in lieu thereof the following: "That it shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of all or any portion of the wages which he may earn to his wife, mother, or other relative. or to an original creditor in liquidation of any just debt for board or clothing which he may have contracted prior to engagement, not exceeding ten dollars per month for each month of the time usually required for the voyage for which the seaman has shipped, under such regulations as the Secretary of the Treasury may prescribe, but no allotment to any other person or corporation shall be lawful." And said section ten is further amended by striking out all of the last paragraph after the words "vessels of the United States," and inserting in lieu of such words stricken out the following: "And any master, owner, consignee, or agent of any foreign vessel who has violated this section shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for a similar violation."

SEC. 4. That section forty-two hundred and eighty-nine of the Revised Statutes be amended so as to read as follows:

"SEC. 4289. The provisions of the seven preceding sections, and of section eighteen of an act entitled 'An act to remove certain burdens on the American merchant marine and encourage the American foreign carrying-trade, and for other purposes,' approved June twenty-sixth, eighteen hundred and eighty-four, relating to the limitations of the liability of the owners of vessels, shall apply to all sea-going vessels, and also to all vessels used on lakes or rivers or in inland navigation, including canal-boats, barges, and lighters."

SEC. 5. That section forty-one hundred and fifty-three of the Revised Statutes be amended by striking out the last sentence of the last paragraph, and inserting instead the following: "In every vessel documented as a vessel of the United States the number denoting her net tonnage shall be deeply carved or otherwise permanently marked on her main beam, and shall be so continued; and if the number at any time cease to be continued, such vessel shall be subject to a fine of thirty dollars on every arrival in a port of the United States if she have not her tonnage number legally carved or permanently marked."

SEC. 6. That from the close of section forty-one hundred and seventy-seven of said statutes the following words shall be stricken out, to wit: "Such vessel shall be no longer recognized as a vessel of the United States;" and in lieu thereof there shall be inserted the words following: "Such vessel shall be liable to a fine of thirty dollars on every arrival in a port of the United States if she have not her proper official number legally carved or permanently marked."

SEC. 7. Every vessel of twenty tons or upwards, entitled to be documented as a vessel of the United States, other than registered vessels, found trading between district and district, or between different places in the same district, or carrying on the fishery, without being enrolled and licensed, and every vessel of less than twenty tons and not less than five tons burden found trading or carrying on the fishery as aforesaid without a license obtained as provided by this title, shall be liable to a fine of thirty dollars at every port of arrival without such enrollment or license. But if the license shall have expired while the vessel was at sea, and there shall have been no opportunity to renew such license, then said fine of thirty dollars shall not be incurred. And so much of section four thousand three hundred and seventy-one of the Revised Statutes as relates to vessels entitled to be documented as vessels of the United States is hereby repealed.

"SEC. 14. That in lieu of the tax on tonnage of thirty cents per ton per annu
posed prior to July first, eighteen hundred and eighty-four, a duty of three cent
ton, not to exceed in the aggregate fifteen cents per ton in any one year, is h
imposed at each entry on all vessels which shall be entered in any port of the U
States from any foreign port or place in North America, Central America, the
India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South A
ica bordering on the Caribbean Sea, or the Sandwich Islands, or Newfoundland
a duty of six cents per ton, not to exceed thirty cents per ton per annum, is h
imposed at each entry upon all vessels which shall be entered in the United S
from any other foreign ports, not, however, to include vessels in distress or no
gaged in trade: *Provided*, That the President of the United States shall suspen
collection of so much of the duty herein imposed, on vessels entered from any fo
port, as may be in excess of the tonnage and light-house dues, or other equiv
tax or taxes, imposed in said port on American vessels by the Government o
foreign country in which such port is situated, and shall, upon the passage o
act, and from time to time thereafter as often as it may become necessary by r
of changes in the laws of the foreign countries above mentioned, indicate by p
mation the ports to which such suspension shall apply, and the rate or rates of
nage-duty, if any, to be collected under such suspension: *Provided, further*, That
proclamation shall exclude from the benefits of the suspension herein authorize
vessels of any foreign country in whose ports the fees or dues of any kind or n
imposed on vessels of the United States, or the import or export duties on thei
goes, are in excess of the fees, dues, or duties imposed on the vessels of the co
in which such port is situated, or on the cargoes of such vessels; and sections f
two hundred and twenty-three and forty-two hundred and twenty-four, and so
of section forty-two hundred and nineteen of the Revised Statutes as conflict
this section, are hereby repealed."

SEC. 12. That the President be, and hereby is, directed to cause the Governn
of foreign countries which, at any of their ports, impose on American vessels a
nage tax or light-house dues, or other equivalent tax or taxes, or any other
charges, or dues, to be informed of the provisions of the preceding section, an
vited to co-operate with the Government of the United States in abolishing all l
house dues, tonnage-taxes, or other equivalent tax or taxes on, and also all othe
for official services to, the vessels of the respective nations employed in the trad
tween the ports of such foreign country and the ports of the United States.

SEC. 13. That section eleven of "An act to remove certain burdens on the A
can merchant marine and encourage the American foreign carrying-trade, an
other purposes," approved June twenty-sixth, eighteen hundred and eighty-
shall not be construed to apply to vessels engaged in the whaling or fishing busi

SEC. 14. That section forty-four hundred and eighteen of the Revised Statu
hereby amended by striking out from the nineteenth and following lines thereo
words "and, to indicate the pressure of steam, suitable steam registers that will

SEC. 16. That rule twelve of section forty-two hundred and thirty-three of the Revised Statutes shall be so construed as not to require row-boats and skiffs upon the river Saint Lawrence to carry lights.

SEC. 17. That whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coastwise trade excepted) shall deny to any vessels of the United States any of the commercial privileges accorded to national vessels in the harbors, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, is hereby authorized to issue his proclamation excluding, on and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such country; and on and after the date named in such proclamation for it to take effect, if the master, officer, or agent of any vessel of such foreign country excluded by said proclamation from the exercise of any commercial privileges shall do any act prohibited by said proclamation in the ports, harbors, or waters of the United States for or on account of such vessel, such vessel, and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States; and any person opposing any officer of the United States in the enforcement of this act, or aiding and abetting any other person in such opposition, shall forfeit eight hundred dollars, and shall be guilty of a misdemeanor, and, upon conviction, shall be liable to imprisonment for a term not exceeding two years.

SEC. 18. Section nine of "An act to remove certain burdens on the American merchant marine and encourage the American foreign carrying-trade, and for other purposes," approved June twenty-sixth, eighteen hundred and eighty-four, is hereby amended in the eighth line by inserting after the words "and the consular officer" the following: "when the transportation is by a sailing vessel; and the regular steerage-passenger rate, not to exceed two cents per mile, when the transportation is by steamer." And the said section is further amended by adding at the end the following: "or to take any seamen having a contagious disease."

Approved, June 19, 1886.

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## AUSTRIA.

### No. 42.

*Mr. Roosevelt to Mr. Bayard.*

No. 51.] UNITED STATES LEGATION,
*Vienna, April* 7, 1888. (Received April 23.)

SIR: I have the honor to inclose translation of a note received from the ministry of foreign affairs in reply to a printed circular containing a copy of the act of Congress approved June 19, 1886, entitled "An act to abolish certain fees for official services to American vessels, and for other purposes." This circular, together with two printed papers to assist in the full understanding of the same, was duly presented to the Austro-Hungarian ministry of foreign affairs on the 31st of August last by this legation, inviting at the same time on the part of the Austro-Hungarian Government co-operation with the Government of the United States in reciprocally abolishing all light-house dues, tonnage taxes, or other equivalent tax or taxes on and also all the fees for official services to the vessels of the two nations employed in trade between their respective ports.

This co-operation on the part of the Austro-Hungarian Government the ministry of foreign affairs now respectfully declines on the ground that under the most "favored-nation clause" the abolishment of all

such charges would have also to be extended to other nations and would involve a considerable reduction in the port dues of Austria-Hungary.

I have, etc.,

JAMES R. ROOSEVELT,
*Chargé d'affaires ad interim.*

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[Inclosure in No. 51.—Translation.]

*Mr. Szöchýeny to Mr. Lawton.*

In the esteemed note of August 31 last, F. O. No. 2, the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. Alexander R. Lawton, was pleased to propose, by order of the United States Government, an abolishment of light-house, tonnage, and other dues and taxes for American ships in Austro-Hungarian ports and for Austro-Hungarian ships in American ports.

After consultation with the respective ministries of both parts of the Empire, the imperial and royal ministry of foreign affairs begs leave to inform the minister of the United States that the imperial and royal Government can not accept this proposition, because the same treatment which we accord to American ships would have to be accorded to all other ships of the most favored flags a proceeding which would entail a considerable reduction in the receipts of the port dues of Austria-Hungary.

For the minister of foreign affairs.

SZÖCHÝENY.

VIENNA, *April* 1, 1888.

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## BELGIUM.

### No. 43.

*Mr. Tree to Mr. Bayard.*

No. 251.] LEGATION OF THE UNITED STATES,
*Brussels, August* 18, 1887. (Received August 29.)

SIR: I have the honor to acknowledge the receipt of your instruction of July 9 last, without number, directing me to invite the Government of Belgium to co-operate with the Government of the United States towards the ends contemplated by section 12 of the act of Congress approved June 19, 1886, with reference to the abolition of certain fees for official services to American vessels, etc., and to inclose herewith a copy of my note written to the Belgium minister of foreign affairs in obedience thereto.

It will be observed that I have almost literally followed the language of the act and of the instruction in extending the invitation directed and in explaining the provisions of the law, as the best exposition of its terms and construction.

With reference to that branch of the instruction directing me to ascertain whether in the ports of Belgium any discrimination exists against vessels of the United States as compared with the vessels of Belgium (other than those engaged in the coasting or colonial trade), or the vessels of any third country, I will take immediate steps to inform myself if possible, and duly report to you any discriminations if they should be found to exist, and the precise nature and extent thereof.

I have, etc.,

LAMBERT TREE.

[Inclosure in No. 251.]

*Mr. Tree to the Prince de Chimay.*

LEGATION OF THE UNITED STATES,
*Brussels, August* 8, 1887.

YOUR EXCELLENCY: I have the honor to bring to your excellency's notice, for the purpose hereinafter expressed, the following sections of an act of the Congress of the United States, approved June 19, 1886, entitled "An act to abolish certain fees for official services to American vessels and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes."

"SEC. 2. That section fourteen of 'An act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes," approved June twenty-sixth, eighteen hundred and eighty-four, be amended so as to read as follows:

"SEC. 14. That in lieu of the tax on tonnage of thirty cents per ton per annum imposed prior to July first, eighteen hundred and eighty-four, a duty of three cents per ton, not to exceed in the aggregate fifteen cents per ton in any one year, is hereby imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or the Sandwich Islands, or Newfoundland; and a duty of six cents per ton, not to exceed thirty cents per ton per annum, is hereby imposed at each entry upon all vessels which shall be entered in the United States from any other foreign ports, not, however, to include vessels in distress or not engaged in trade: *Provided*, That the President of the United States shall suspend the collection of so much of the duty herein imposed on vessels entered from any foreign port as may be in excess of the tonnage and light-house dues, or other equivalent tax or taxes imposed in said port on American vessels by the Government of the foreign country in which such port is situated, and shall, upon the passage of this act, and from time to time thereafter, as often as it may become necessary by reason of changes in the laws in the foreign countries above mentioned, indicate by proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage duty, if any, to be collected under such suspension: *Provided further*, That such proclamation shall exclude from the benefits of the suspension herein authorized the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues, or duties imposed on the vessels of the country in which such port is situated, or on the cargoes of such vessels; and sections forty-two hundred and twenty-three and forty-two hundred and twenty-four, and so much of section forty-two hundred and nineteen of the Revised Statutes as conflicts with this section are hereby repealed.

"SEC. 12. That the President be, and hereby is, directed to cause the governments of foreign countries which, at any of their ports, impose on American vessels a tonnage tax or light-house dues, or other equivalent tax or taxes, or any other fees, charges, or dues, to be informed of the provisions of preceding section, and invited to co-operate with the Government of the United States in abolishing all light-house dues, tonnage taxes, or other equivalent tax or taxes on, and also all other fees for official services to, the vessels of the respective nations employed in the trade between the ports of such foreign country and the ports of the United States.

"SEC. 17. That whenever any foreign country whose vessels have been placed on the same footing in the ports of the United States as American vessels (the coastwise trade excepted) shall deny to any vessel of the United States any of the commercial privileges accorded to national vessels in the harbors, ports, or waters of such foreign country, the President, on receiving satisfactory information of the continuance of such discriminations against any vessels of the United States, is hereby authorized to issue his proclamation excluding on, and after such time as he may indicate, from the exercise of such commercial privileges in the ports of the United States as are denied to American vessels in the ports of such foreign country, all vessels of such foreign country of a similar character to the vessels of the United States thus discriminated against, and suspending such concessions previously granted to the vessels of such country; and on and after the date named in such proclamation for it to take effect if the master, officer, or agent of any vessel of such foreign country excluded by said proclamation from the exercise of any commercial privileges shall do any act prohibited by said proclamation in the ports, harbors, or waters of the United States for or on account of such vessel, such vessel and its rigging, tackle, furniture, and boats, and all the goods on board, shall be liable to seizure and to forfeiture to the United States, and any person opposing any officer of the United States in the enforcement of the act or aiding or abetting any other person in such opposition, shall forfeit

eight hundred dollars, and shall be guilty of a misdemeanor, and upon conviction shall be liable to imprisonment for a term not exceeding two years."

I have the honor to inclose herewith for the further information of your excellency a copy of the act of June 19, 1886, as well as of the act of June 26, 1884, which is amended by the one of 1886.

In pursuance of the provisions of section 12 of the act of 1886, above quoted, I am instructed by my Government to invite the co-operation of His Majesty's Government with the Government of the United States in abolishing all light-house dues, tonnage taxes, or other equivalent tax or taxes on, and also all other fees for official services to, the vessels of the respective nations employed in the trade between the ports of Belgium and the ports of the United States.

It will be seen that the provisions of the sections above set forth are broad enough to cover either a reduction or a complete abolition by reciprocal action of tonnage and equivalent charges on navigation, and it is open to any foreign country in all or any of whose ports a less charge is made than that now imposed in the ports of the United States to obtain forthwith a reduction of the charge in the United States on vessels coming from such port or ports to an equality with that levied in the port or ports designated. As an evidence of this I have the honor to inclose a copy of the proclamation of the President of April 22, 1887, following the arrangement entered into between the Government of the United States and that of the Netherlands, whereby complete exemption from tonnage dues is secured to all vessels of whatever nationality entering ports of the United States from the ports of the Netherlands in Europe or from certain named ports of the Dutch East Indies.

It is to be observed that the invitation made to foreign countries under the provisions of section 12 of the act is equally extended to all countries, both those having ports within the geographical zone to which under the shipping acts 1884 and 1886 the rate of 3-15 cents per ton applies, and those which have no ports within that zone and to which the rate of 6-30 cents per ton now applies.

The rate of 3-15 cents per ton was geographical and involved no test of flag. The object and intent of the present invitation is to deal on the basis of reciprocity with countries as nationalities, whether situated within or without the geographical limits referred to.

In communicating the invitation herein contained I am instructed by my Government to convey to your excellency the fullest assurance of its entire friendliness, and of the desire of the United States to treat the commerce and flag of Belgium on the footing of the most complete reciprocity in those matters to which the invitation relates.

I avail, etc.,

LAMBERT TREE.

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## BRAZIL.

### No. 44.

*Mr. Jarvis to Mr. Bayard.*

No. 139.] LEGATION OF THE UNITED STATES,
*Rio de Janeiro, August* 6, 1888. (Received September 1.)

SIR: On receiving your No. — of July 9, 1887, in reference to a proposed reduction or total abolition of the port charges on vessels of the United States or of Brazil entering each other's ports, I addressed a formal note to the minister for foreign affairs on the subject, and in addition thereto had an interview with the director-general of that department. In the interview the director intimated that, as Brazil has no vessels engaged in foreign trade, it was not likely the Government would find any reason for entering into the proposed arrangement, so I was prepared for the final reply of the minister, which he made on the 31st of July, 1888, giving the reasons of the Imperial Government for not accepting the proposal of the United States. I herein inclose a translation of the reply, from which it will be seen the Imperial Government assigns the following reasons for its action:

First. Brazil has no merchant-marine, and consequently there could be no reciprocity in the proposed reduction or abolition of port charges on such vessels.

Second. The light-house tax in Brazil corresponds to the tonnage tax in the United States, and that it is not only not excessive in comparison with it, but that it is sometimes much less and especially so when the vessel is one of large tonnage.

Third. The ships of the United States, as well as ships of other nationalities, enjoy the privilege of engaging in the coastwise trade of Brazil between its ports without any extra burdens or conditions therefor, and that this constitutes an immunity from port charges not given by many other nations.

It is a well known fact that much of the coastwise trade of Brazil is done by foreign vessels, and I think I may say a fair proportion of it by vessels carrying the flag of the United States. There is no discrimination against vessels of the United States in the port charges in Brazil known to me, and I think I may safely report there is none.

I have the honor, etc.,

THOS. J. JARVIS.

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[Inclosure in No. 139.—Translation.]

*Mr. da Silva to Mr. Jarvis.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Rio de Janeiro, July* 31, 1888.

In addition to the note from this Department of September 17 of the year last past I have to communicate to Mr. T. J. Jarvis, envoy extraordinary and minister plenipotentiary of the United States of America, that the Imperial Government sees no reason of advantage by which Brazil may accept the proposal of the Government of the referred to States in adopting the reduction of the tonnage tax established by Congress in favor of vessels which may enter the ports of that Republic.

Mr. Jarvis will, without doubt, find this act justified by giving attention to the following considerations:

Brazil has no merchant marine whose ships seek the ports of the United States, not being able for this reason to realize the reciprocity of intercourse between the two countries.

The light-house tax, which in Brazil corresponds to the tonnage tax of the United States, maintains with it a sufficient proportion, and the cases are not rare in which the second very much exceeds the first, which has its limit in favor of the larger class of vessels.

And, finally, the ships of the United States, as well as those of other nationalities, enjoy without condition the free privilege of doing the coastwise trade, which constitute an immunity which many nations do not concede to foreign vessels.

I have the honor to renew, etc.,

RODRIGO A. DA SILVA.

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## CHINA.

### No. 45.

*Mr. Denby to Mr. Bayard.*

No. 450.] LEGATION OF THE UNITED STATES,
*Peking, September* 8, 1887. (Received November 2.)

SIR: I have the honor to acknowledge the receipt of your circular of date July 9, 1887, relating to the act of Congress, approved July 19, 1886, entitled "An act to abolish certain fees for official services to American vessels, etc.," and directing me to notify the Chinese Government of the passage of this act, and to invite that Government to cooperate with the United States in abolishing all light-house dues, ton-

nage taxes or other equivalent tax or taxes on, and also all other fees for official services to, the vessels of the respective nations employed in the trade between the ports of China and the United States.

I have prepared a dispatch to the Tsung-li Yamên complying with these directions, which is now being translated. When an answer is received, I will inform you of the contents thereof.

In compliance with your instructions I have also taken measures to ascertain whether in the ports of China or any dependency thereof any discrimination exists against vessels of the United States as compared with the vessels of China (other than those engaged in the coasting or colonial trade), or the vessels of any third country.

I will report thereon at the earliest possible moment.

I have, etc.,

CHARLES DENBY.

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## No. 46.

### *Mr. Denby to Mr. Bayard.*

No. 453.] LEGATION OF THE UNITED STATES,
*Peking, September* 15, 1887. (Received November 2.)

SIR: As a further acknowledgment of your circular of date July 9, directing me to report whether there is any discrimination against the vessels of the United States in Chinese waters, I have the honor to state that no such discrimination exists.

By Article XVI of the Tientsin treaty of June 18, 1858, the tonnage duties are fixed at the rate of 4 mace per ton of 40 cubic feet for vessels over 150 tons burden and 1 mace per ton of 40 feet for vessels of 150 tons burden or under.

By the immigration and commercial treaty of November 17, 1880, it is provided:

ART. III. His Imperial Majesty the Emperor of China hereby promises and agrees that no other kind or higher rate of tonnage dues or duties for imports or exports on coastwise trade shall be imposed or levied in the open ports of China upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States, or any foreign country, or transported in the same from any open port of China to another, than are imposed or levied on vessels or cargoes of any other nation or on those of Chinese subjects.

The United States, by the last clause of the same article, enter into the same agreement. Discrimination, therefore, is impossible.

Prior to the adoption of the treaty, China, through Prince Kung, assured Mr. Angell that there was no discrimination against vessels of the United States.

During my term of office there has been no complaint of any discrimination.

It seems that there has been but one Chinese steamer, the *Ho Chung*, that has ever entered a port of the United States.

I have transmitted to the Tsung-li Yamên a translation of the act of Congress set out in the circular, and of the most material parts of the circular itself.

I have, etc.,

CHARLES DENBY.

No. 47.

*Mr. Denby to Mr. Bayard.*

No. 458.] LEGATION OF THE UNITED STATES,
*Peking, September* 21, 1887. (Received November 11.)

SIR: Adverting to my dispatch No. 453, of date the 15th instant, I have now the honor to inclose copy of reply which I received from the foreign office, wherein you will observe that the Chinese Government find it difficult to accept the invitation of the Government of the United States, for the reasons set forth therein, to co-operate with it in carrying out, upon a reciprocal basis, the act of Congress approved June 19, 1886, having relation to the abolition of tonnage dues and other charges on navigation.

I have, etc.,

CHARLES DENBY.

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[ [Inclosure in No. 458.—Translation.]

*The Foreign Office to Mr. Denby.*

No. 15, 1887.] *Peking, September* 19, 1887.

YOUR EXCELLENCY: The Prince and ministers had the honor to receive on the 15th instant a communication from your excellency, by which you informed them that, under a new act of Congress, a reduction or complete abolition by reciprocal action of tonnage and all other charges on navigation could be made between the United States and foreign countries. Your excellency transmitted a translation of four clauses of said act, and on behalf of your Government invited China's co-operation with it in making the reductions specified by said act, etc.

It appears to the Yamên that in western countries the carrying trade is conducted by vessels of those countries, and hence, the question of a reduction of tonnage dues, or the entire abolition of such charges on navigation, could be reciprocally discussed; but as a very few merchant vessels under the Chinese flag ever go to foreign countries the circumstances are different, and for that reason China finds it difficult to accept the invitation extended by the United States.

As in duty bound, the Prince and ministers send this communication in reply, with the request that your excellency will communicate their decision upon this question to the Government of the United States.

A necessary communication addressed to his excellency Charles Denby.

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## DENMARK.

No. 48.

*Mr. Anderson to Mr. Bayard.*

No. 208.] LEGATION OF THE UNITED STATES,
*Copenhagen, February* 24, 1888. (Received March 12.)

SIR: I have the honor to report that, acting upon the instructions contained in your printed circular dated July 9, 1887, I embodied a request for the desired information in a note to the royal Danish minister of foreign affairs, under date of August 11, 1887. Having just received a reply from his excellency, I have herewith the honor of transmitting to you copies of both notes, together with a translation of the latter.

I have, etc.,

R. B. ANDERSON.

[Inclosure 1 to No. 208.]

*Mr. Anderson to Count Rosenörn-Lehn.*

LEGATION OF THE UNITED STATES,
*Copenhagen, August* 11, 1887.

EXCELLENCY: In obedience to instructions from my Government, I have the honor to ask your excellency to have the goodness to inform me whether, in the ports of Denmark, or in any dependency, thereof, any discrimination exists against vessels of the United States as compared with the vessels of Denmark (other than those engaged in the coasting or colonial trade), or the vessels of any third country.

Should any such discrimination exist I will be obliged to you if you will inform me in regard to its precise nature and extent.

I avail myself, etc.,

R. B. ANDERSON.

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[Inclosure 2, in No. 208.—Translation.]

*Count Rosenörn-Lehn to Mr. Anderson.*

COPENHAGEN, *February* 22, 1888.

Mr. MINISTER: In a note dated August 11 of last year, you desire to ascertain whether in the ports of Denmark, or any dependency thereof, any discrimination exists against vessels of the United States as compared with the vessels of Denmark (other than those engaged in the coasting or colonial trade), or the vessels of any third country.

In reply I have the honor to make the following statement:

According to Article 3 of the treaty of April 26, 1826, between Denmark and the United States, United States vessels engaged in the Danish foreign carrying trade are, in the ports of Denmark, to be treated in every respect the same as Danish vessels.

Ship dues, which in Denmark have replaced the former tonnage, light-house, and clearance dues, and are the only ones collected, are therefore exacted of United States vessels according to the same rules as of Danish vessels, and in the royal and municipal harbors they pay the same harbor and wharf dues as the Danish ships (at least in case the Danish vessel does not belong in the harbor concerned, as in some municipal harbors, Copenhagen excepted, the harbor dues are lower for such vessels than for other Danish vessels).

In the above-mentioned note you did not include vessels engaged in the coasting trade. I would, however, state for your information upon this point, that His Majesty's Government is willing, in case of reciprocal action on the part of the United States, to grant United States vessels the right of free coast trade between the harbors of the kingdom upon an equal footing with Danish vessels.

According to article 6 of the treaty of 1826, the provisions of that treaty are not to apply to Iceland, the Faroe Islands, Greenland, or the Danish West Indies.

By independent legislation in Iceland, no restrictions or discriminations in the treatment of United States vessels are provided for, save those in regard to the coasting trade and the trade between Iceland and this kingdom, and His Majesty's Government is willing, in case of reciprocity on the part of the United States, to remove the discrimination against United States vessels.

The laws governing the Faroe Islands require of United States vessels visiting these islands for purposes of trade, besides the usual tonnage dues, the supplementary charge of 2 kroner per ton of the vessel's tonnage, and in addition thereto the above-mentioned restriction in regard to the coasting trade and the trade between the islands and the Kingdom is in force. But inasmuch as this supplementary charge has by treaty already been removed in regard to vessels of various other nations, His Majesty's Government is willing to extend this favor to those of the United States, and also in case of reciprocity to extend to them the privileges of the coasting trade among these islands, as well as of the trade between these islands and the Kingdom.

In the Danish West Indies, United States vessels are, upon the whole, treated in all respects the same as Danish vessels.

Finally, I may call your attention to the fact that the trade of Greenland is no more open to Danish vessels than to foreign vessels, that trade being reserved exclusively for the crown.

I seize this opportunity of renewing to you, etc.

O. D. ROSENÖRN-LEHN.

No. 49.

*Mr. Anderson to Mr. Bayard.*

No. 209.] LEGATON OF THE UNITED STATES,
*Copenhagen, February* 25, 1888. (Received March 12.)

SIR: Referring to my dispatch No. 208, dated February 24, 1888, I have the honor to call your attention to the fact that I divided your circular of July 9, and made it a subject of two notes to the royal Danish minister of foreign affairs. In the first I simply asked for the information required by the latter part of the circular, and the note from the minister of foreign affairs, which I transmitted with my No. 208, is an answer to the same. In my second note I embodied the invitation to the Government of Denmark to co-operate with the Government of the United States toward the ends contemplated by the circular.

To this second note I have not yet received a reply, but I am informed that an effort is being made to abolish all tonnage and equivalent charges on navigation. The foreign office is daily expecting information from the minister of finance on the subject, and as soon as that is at hand I am promised an answer to my second note. Count Sponneck, the Danish minister in Washington, has, I understand, been fully instructed in regard to the position of the Government of Denmark anent this subject.

I have, etc.,

R. B. ANDERSON.

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FRANCE.

No. 50.

*Mr. Vignaud to Mr. Bayard.*

No. 471.] LEGATION OF THE UNITED STATES,
*Paris, August* 29, 1887. (Received September 13.)

SIR: In accordance with your instruction of July 9 I have transmitted to Mr. Flourens the initiative the President is authorized to extend, with a view of reaching an understanding for abolishing certain tonnage ana light-house dues, and in reply he states that he has submitted the matter to his colleagues, and that later on he will acquaint me with their opinion. In the mean time he desires three more copies of the printed circular of July 9 and of the documents therein mentioned.

I have, etc.,

HENRY VIGNAUD.

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GERMANY.

No. 51.

*Mr. Coleman to Mr. Bayard.*

No. 496.] LEGATION OF THE UNITED STATES,
*Berlin, August* 25, 1887. (Received September 12.)

SIR: I have the honor to transmit herewith a copy of my note of today addressed to the foreign office in execution of your instruction of July 9, 1887, directing that the German Government be invited to co-

operate with that of the United States to the end of reducing or abolishing, by reciprocal action, tonnage and equivalent dues on navigation.

In further execution of your instruction I addressed, under date of the 17th instant, a communication to Mr. von Versen, our vice and acting consul-general here, requesting him to cause the legation to be furnished with reports from the consular officers of the United States residing at the German sea-ports, showing what discrimination, if any, with respect to tonnage or equivalent dues existed at their respective ports against our vessels as compared with those of Germany, or of any third country. In response to my request Mr. von Versen has written as follows:

In reply permit me to state that on the question under consideration repeatedly reports have been rendered to the Department of State, as you will see from the inclosed copy of a report from this office to the Department of State (dated July 5, 1887), and that all reports having passed through this office from our consuls at German sea-ports, dwelling on the same subject, have answered the same question in the negative.

I await, therefore, your directions whether or not under such circumstances you still desire me to address the consuls with reference thereto.

In answer to his communication I informed Mr. von Versen that it would not be necessary to address the consuls on the subject again at present.

Hoping my execution of your instructions will meet with your approval,

I have, etc.,

CHAPMAN COLEMAN.

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[Inclosure 1 in No. 496.]

*Mr. Coleman to Count Berchem, August 25, 1887.*

F. O., No. 310.] LEGATION OF THE UNITED STATES OF AMERICA,
*Berlin, August 25, 1887.*

The undersigned, chargé d' affaires *ad interim* of the United States of America, has the honor, acting under instructions from his Government, to invite the attention of Count Berchem, acting imperial secretary of state for foreign affairs, to an act of Congress, approved June 19, 1886, entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," of which act, as also of the prior act of June 26, 1884, therein referred to, copies are herewith inclosed, and to extend to the Imperial Government the invitation authorized by section 12 of the act of June 19, 1886, to co-operate with the Government of the United States toward the contemplated ends.

The following provisions are found in the act of June 19, 1886:

(Here were quoted sections 11, 14, 12, and 17, as found in the circular instruction of the Department of State of July 9, 1887.)

It will be seen that the provision of the sections above quoted are broad enough to cover either a reduction or a complete abolition, by reciprocal action, of tonnage and equivalent charges on navigation; and it is open to any foreign country, in all or any of whose ports a less charge is made than that now imposed in the ports of the United States, to obtain forthwith a reduction of the charge in the United States, on vessels coming from such port or ports, to an equality with that levied in the port or ports designated. An example of this is furnished by the arrangement lately entered into between the Government of the United States and that of the Netherlands, as shown by the inclosed copy of the President's proclamation of April 22, 1887, whereby complete exemption from tonnage dues is secured to all vessels, of whatever nationality, entering ports of the United States from the ports of the Netherlands, in Europe, or from certain-named ports of the Dutch East Indies.

It is to be observed that the invitation herein contained is extended equally to all countries, both those having ports within the geographical zone to which, under the shipping acts of 1884 and 1886, the rate of 3-15 cents per ton applies, and to those which have no ports within that zone, and to which the rate of 6-30 cents per ton now applies. The rate of 3-15 cents per ton was geographical, and involved no test of flag. The object and intent of the present invitation is to deal, on the basis of reciprocity,

with countries as nationalities, whether situated within or without the geographical limits referred to.

In communicating the invitation herein contained, the undersigned is instructed to convey to the acting imperial secretary of state for foreign affairs the fullest assurance of its entire friendliness, and of the desire of the United States to treat the commerce and flag of Germany on the footing of the most complete reciprocity in those matters to which the invitation relates.

The undersigned avails himself, etc.,

CHAPMAN COLEMAN.

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*CORRESPONDENCE WITH THE LEGATION OF GERMANY AT WASHINGTON.*

No. 52.

*Mr. von Alvensleben to Mr. Bayard.*

[Translation.]

IMPERIAL GERMAN LEGATION,
*Washington, January* 24, 1888.

Mr. SECRETARY OF STATE:

On the 25th of August, 1887, the chargé d'affaires of the United States at Berlin, acting under instructions from his Government, invited the attention of the Imperial Government to an act of Congress approved June 19, 1886, entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes."

In the letter which he addressed to Count Berchem, then acting imperial secretary of state for foreign affairs, the chargé d'affaires of the United States pointed out that the provisions of said act were broad enough to cover either a reduction or a complete abolition by reciprocal action of tonnage and equivalent charges on navigation, and that it was open to any foreign country in all or any of whose ports a less charge is made than that now imposed in the ports of the United States, to obtain forthwith a reduction of the charge in the United States on vessels coming from such port or ports to an equality with that levied in the port or ports designated.

In accordance with instructions which I have received from my Government, I now have the honor to state, Mr. Secretary, that no tonnage or light-house dues, or any equivalent tax or taxes whatever, as referred to in said act of Congress of June 19, 1886, are imposed upon American vessels entering the ports of Germany, neither by the Imperial Government nor by the governments of the German maritime states, and that vessels belonging to the United States of America and their cargoes are not required, in German ports, to pay any fee or due of any kind or nature, or any import due higher or other than is payable by German vessels or their cargoes.

I have, consequently, the honor to respectfully ask that you may be pleased, Mr. Secretary of State, to cause a proclamation to be issued by the President of the United States, similar to that issued on the 22d of April, 1887, in favor of the navigation of the Kingdom of the Netherlands, and setting forth that the collection of the whole of the duty of 6 cents per ton, not to exceed 30 cents per ton per annum (which is imposed by section 11 of the act of Congress of June 19, 1886), upon vessels entered in the ports of the United States from any of the ports of Germany, shall be suspended, and that such suspension shall continue so long as the reciprocal exemption of vessels belonging to citizens of

the United States and their cargoes shall be continued in the ports of Germany.

At the same time I beg to state, while presenting the above declaration, that the Imperial Government reserves to itself all rights and privileges heretofore claimed under treaty stipulations, with regard to the treatment of German vessels entering American ports.

The careful examination of the laws and regulations relating to navigation of the different German states bordering on the sea having delayed the reply of the Imperial Government to the invitation of the United States Government, although the same state of affairs with regard to the treatment of vessels entering German ports was, as I had the honor to point out in my letter of February 15, 1886, already in existence on and before the date of the approval of the act of Congress of June 19, 1886, I trust that the United States Government will deem it proper that the tonnage dues or equivalent taxes imposed upon and levied from German ships in American ports since that date be refunded.

Accept, etc.,

H. v. ALVENSLEBEN.

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No. 53.

*Mr. Bayard to Mr. von Alvensleben.*

DEPARTMENT OF STATE,
*Washington, January* 26, 1888.

SIR: With reference to previous correspondence on the subject, I have the honor to acknowledge the receipt of your note of the 24th instant, in which you inform this Department that your Government does not levy upon American shipping any tonnage or light-house dues, or any equivalent tax or taxes whatever as referred to in the act of Congress of June 19, 1886, and in which you ask that a proclamation may be issued by the President suspending the collection of tonnage duties upon vessels from the ports of Germany similar to that which was issued in the case of vessels coming from the Netherlands on the 22d of April last.

I take pleasure in informing you, in reply, that in view of the statement contained in your note to the effect that vessels of the United States are exempt from tonnage dues and other charges in German ports, the President will at once issue a proclamation suspending the operation of the act of June 19, 1886, as to vessels coming from the ports of your country, in the matter of tonnage dues.

Adding that the Department reserves for consideration your request to have the tonnage duties levied upon German ships, in American ports, since June 19, 1886, refunded, I beg you to accept, etc.

T. F. BAYARD.

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No. 54.

*Mr. Bayard to Mr. von Alvensleben.*

DEPARTMENT OF STATE,
*Washington, January* 30, 1888.

SIR: With reference to my reply of the 26th instant to your note of the 24th of the present month, relative to tonnage duties on vessels from the ports of Germany, I now have the honor to inclose herewith, for the

use of your legation, printed copies of the President's proclamation of the 26th instant, suspending the collection of tonnage duties upon vessels entered in the ports of the United States from any of the ports of the Empire of Germany.

Accept, sir, etc.,

T. F. BAYARD.

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[Inclosure.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas satisfactory proof has been given to me by the Government of the Empire of Germany that no tonnage or light-house dues, or any equivalent tax or taxes whatever, are imposed upon American vessels entering the ports of the Empire of Germany, either by the Imperial Government or by the Governments of the German maritime states, and that vessels belonging to the United States of America, and their cargoes, are not required, in German ports, to pay any fee or due of any kind or nature, or any import due higher or other than is payable by German vessels or their cargoes:

Now, therefore, I, Grover Cleveland, President of the United States of America, by virtue of the authority vested in me by section 11 of the act of Congress entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," approved June nineteenth, one thousand eight hundred and eighty-six, do hereby declare and proclaim that from and after the date of this my proclamation shall be suspended the collection of the whole of the duty of six cents per ton, not to exceed thirty cents per ton per annum (which is imposed by said section of said act) upon vessels entered in the ports of the United States from any of the ports of the Empire of Germany.

*Provided*, That there shall be excluded from the benefits of the suspension hereby declared and proclaimed the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues, or duties imposed on the vessels of such foreign country, or their cargoes, or of the fees, dues, or duties imposed on the vessels of Germany or the cargoes of such vessels.

And the suspension hereby declared and proclaimed shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and their cargoes, shall be continued in the said ports of the Empire of Germany, and no longer.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-sixth day of January, in the year of our Lord one thousand eight hundred and eighty-eight, and of the Independence of the United States the one hundred and twelfth.

[SEAL.] GROVER CLEVELAND.

By the President:

T. F. BAYARD,
*Secretary of State.*

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## No. 55.

### *Mr. von Alvensleben to Mr. Bayard.*

IMPERIAL GERMAN LEGATION,
*Washington, February* 25, 1888. (Received February 25.)

DEAR Mr. BAYARD: Referring to my verbal communication of the 17th instant and the papers I left then with you, I have the regret to state that, according to a telegram from Messrs. Oelrichs & Co. in New York, which reached me yesterday, tonnage duties have again been

collected on the steamer *Saale* at that port on her arrival from Bremen yesterday.

I should be obliged if, in order to prevent any further misconstruction of the proclamation issued by the President of the United States in favor of the vessels arriving from the ports of Germany, you would cause the proper authorities to be given without delay to understand that such proceedings are in manifest contradiction with that proclamation.

Believe me, dear Mr. Bayard, very sincerely, yours,

H. V. ALVENSLEBEN.

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[Papers referred to in Mr. von Alvensleben's note of February 25, 1888.]

1. *Mr. Schwab to Dr. Glavis.*

[Telegram.]

NEW YORK, *February* 15, 1888.

DR. GLAVIS,
515 *Fourteenth street, Washington:*

Collector continues collection of tonnage dues from us, Commissioner Navigation having instructed him only vessels coming direct from German ports entitled to the suspension. Our steamers do not enter at Southampton. They only run to Southampton water to embark mails and passengers.

GUSTAVE H. SCHWAB.

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2.—*Treasury circular.*

TONNAGE DUES ON VESSELS FROM GERMANY.

No. 19.] TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
*Washington, D. C., February* 1, 1888.

*To collectors of customs and others:*

The attention of officers of the customs is invited to the appended proclamation* by the President, dated the 26th ultimo, declaring that vessels may be entered in the ports of the United States from any of the ports of the Empire of Germany, without the payment of tonnage dues at the rate of 6 cents per ton, under section 11 of the act of June 19, 1886.

Vessels arriving from any of said ports will hereafter be admitted to entry without the payment of said dues, unless the vessel shall belong to a foreign country in whose ports the fees or dues imposed on American vessels or the duties on their cargoes exceed (1) those imposed on its own vessels or their cargoes, or exceed (2) those imposed on the vessels of Germany or their cargoes.

Certified statements may be forwarded for a refund of the dues on tonnage aforesaid, paid on the entry from German ports, of vessels exempted from the tax, and which were entered at any port of the United States on or since the 26th ultimo.

The proclamation does not apply to vessels which entered before that date, and the dues on such vessels were lawfully levied, and will be retained.

You are requested to notify this office of any tonnage tax or other equivalent tax or taxes which may be imposed hereafter on vessels of the United States in any port of the German Empire, and you will exercise care to levy tonnage dues on all vessels from said ports of any foreign country which discriminates in its own ports against vessels of the United States or their cargoes in favor of its own vessels or of the vessels of Germany.

Information has been received showing that vessels belonging to Great Britain, France, Germany, Denmark, Holland, Sweden, Norway, Belgium, and Portugal arriving in the United States *directly* from the ports of the German Empire may be admitted under the proclamation without the payment of the dues therein mentioned.

C. B. MORTON,
*Commissioner of Navigation.*

Approved:

C. S. FAIRCHILD,
*Secretary.*

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* See inclosure with No. 54, *supra.*

No. 56.

*Mr. Bayard to Mr. Alvensleben.*

DEPARTMENT OF STATE,
*Washington, February* 28, 1888.

DEAR MR. VON ALVENSLEBEN: Responding to your personal note of the 25th instant, I beg to inform you that the question of continued exaction of tonnage dues on the vessels of the North German Line, arriving at New York from Bremen via Southampton, has been brought by me to the attention of the President.

It is now being investigated and I trust that all cause of complaint by the German vessel-owners will speedily be removed.

Yours, etc.,

T. F. BAYARD.

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## GREAT BRITAIN.

No. 57.

*Mr. Phelps to Mr. Bayard.*

No. 625.] LEGATION OF THE UNITED STATES,
*London, November* 19, 1887. (Received November 29.)

SIR: Referring to your circular instruction of July 9 with reference to the amendment of the laws relating to shipping, I have the honor to acquaint you that I lost no time in forwarding a copy of the same to Her Majesty's Government and in inviting their co-operation in the matter. The Marquis of Salisbury's reply to my communication has just reached me, and I inclose herewith a copy of the same.

I have, etc.,

E. J. PHELPS.

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[Inclosure in No. 625.]

*The Marquis of Salisbury to Mr. Phelps.*

FOREIGN OFFICE, *November* 17, 1887.

SIR: I lost no time in referring to the board of trade your letter of August 15, inviting the co-operation of Her Majesty's Government with that of the United States with a view to lightening the burdens on shipping and amending the laws relating to shipping, etc., and also asking for information as to whether any, and, if so, what discrimination exists in this country against vessels of the United States as compared with British vessels or the vessels of any other country.

I have now the honor to state to you that I am informed by the board of trade that there are no such discriminating duties on United States vessels as compared with British vessels in ports of the United Kingdom. Such indeed would be contrary to the convention of commerce between this country and the United States of July 3, 1815, clause II of which stipulates that "no higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States, nor in the ports of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

This stipulation, so far as the United Kingdom is concerned, was carried into effect by the Act, 59 George III, chapter 54, clause viii.

It is, moreover, the general and long-established policy of the United Kingdom, apart from treaties, not to impose discriminating duties of any kind, whether on ships or cargoes: and even the coasting trade of the United Kingdom is freely open

to vessels of the United States as to other foreign vessels, although the United States does not admit British vessels to reciprocal privileges in her coasting trade.

As regards the request of the United States Government for co-operation in reducing or lightening light-house or tonnage dues on shipping between the ports of the British Empire and those of the United States, I am informed by the board of trade that the whole subject of light-house dues in the United Kingdom is being inquired into, with the view of ascertaining whether any revision or re-adjustment of those dues can be made, but not with any intention on the part of Her Majesty's Government to abolish them.

The board of trade are also making inquiries as to whether there are any ports in the United Kingdom where the light-house dues in the trade with the United States are lower than the tonnage dues now leviable in the United States, so that, as regards these ports, British vessels would be entitled to the reciprocal treatment promised in the circular which accompanied your note; and as soon as I shall have heard the result of those inquiries, I shall have the honor of addressing a further communication to you.

I have, etc.,

SALISBURY.

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## ITALY.

### No. 58.

### *Mr. Dougherty to Mr. Bayard.*

No. 167.] LEGATION OF THE UNITED STATES,
*Rome, October* 15, 1887. (Received October 29.)

SIR: On August 12 last, in obedience to the instructions contained in your circular letter dated July 9, 1887, this legation addressed a note to the minister of foreign affairs of Italy, communicating the desire of the United States Government to establish a basis of thorough reciprocity with Italy in the matter of tonnage and equivalent charges on navigation. A copy of the said circular was therein inclosed. I have now the honor to report that I have just received a reply from the minister of foreign affairs, in which, after assuring me that no discrimination exists in Italian ports against United States vessels compared with those of Italy or any third country, his excellency states that the Government of the King had given the proposal careful consideration but had not deemed it opportune to move any modification of the existing law on the subject. I have the honor to inclose a copy and translation of Minister Crispi's letter.

I have, etc.,

C. A. DOUGHERTY.

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[Inclosure in No. 167.—Translation.]

*Mr. Crispi to Mr. Dougherty.*

MINISTRY OF FOREIGN AFFAIRS,
*Rome, October* 12, 1887.

Mr. CHARGÉ D'AFFAIRES: I have had the honor of receiving the esteemed note addressed to me by Mr. Stallo on August 12 last, proposing to the Government of the King to place itself in accord with that of the United States of America, with the object of assuring to the two countries a perfect reciprocity in the matter of tonnage dues and of those other fees applied to navigation in the respective ports, and moreover, inquiring if in the ports of Italy or its dependencies there exist any differences between the tariffs adopted in respect to navigation dues as against United States vessels compared with those in force for Italian vessels or those of any other country; and, if so, what are precisely these differences.

As to the second part of the legation's note I beg to inform you that vessels of the United States are subject to the same conditions as Italian vessels and those of all other countries.

In regard to the first part of said note I desire to notify you that the Government of the King has taken into serious consideration and carefully examined the proposal of the United States Government of establishing a perfect reciprocity between the two countries in the matter of tonnage and navigation taxes.

To render possible, however, such an accord, it would be necessary for the Royal Government to undertake the modification of a law recently adopted, which is that of December 6, 1886, No. 3547 (3d series), and which regulates the anchorage taxes (tasse di ancoraggio) for vessels arriving from foreign parts in ports of the Kingdom.

At the present time it does not seem opportune, for reasons of availability (indole), administrative as well as economical, that the provisions of said law should be changed.

It is therefore with regret that the Royal Government finds it impossible to accede to the desire manifested by the Cabinet of Washington.

Be good enough to accept, etc.,

F. CRISPI.

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*CORRESPONDENCE WITH THE LEGATION OF ITALY IN WASHINGTON*

## No. 59.

### *Mr. Ferrara to Mr. Bayard.*

[Translation.]

LEGATION OF ITALY,
*Washington, July* 18, 1887. (Received July 18.)

Mr. SECRETARY OF STATE:

In virtue of several proclamations issued by the President, the last of which bears date of the 22d of April last, and has reference to the ports of the Netherlands and to certain ports in the East Indies, the collection of tonnage dues has been suspended as regards merchant vessels, whatever may be their nationality, coming from the ports designated in the aforesaid proclamations, provided that the countries to which such vessels belong do not levy upon American merchant vessels higher duties than they do upon their own.

The Government of the King has just informed me that in the ports of Italy United States vessels and their cargoes, as well as those sailing under any other flag, are required to pay only the same duties and imposts as Italian vessels, and it instructs me, at the same time, to take the necessary steps to the end that Italian merchant vessels may enjoy the benefits granted by the proclamations aforesaid.

I consequently have the honor to beg your excellency to be pleased to cause the necessary measures to be taken in order that Italian vessels coming from the ports mentioned in the proclamations referred to may be freely allowed to enter the ports of the United States without being subjected to the payment of tonnage dues.

Thanking you in advance for your kind compliance with this my request, I avail myself, etc.,

E. FERRARA.

No. 60.

*Mr. Bayard to Mr. Ferrara.*

DEPARTMENT OF STATE,
*Washington, July* 26, 1887.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, in which you refer to the proclamation of the President, of the 22d April last, under section 11 of the shipping act of June 19, 1886, suspending the collection of tonnage dues on vessels entering our ports from those of the Netherlands in Europe and from certain Dutch East Indian ports, and say, that "in the ports of Italy, United States vessels and their named cargoes, as well as those sailing under any other flag, are required to pay only the same duties and imposts as Italian vessels," which facts, your Government understands, entitle Italian vessels coming from said-named Dutch ports to the benefits of the proclamation.

The proviso in the proclamation, excluding certain vessels from the benefits, reads as follows:

*Provided*, That there shall be excluded from the benefits of the suspension hereby declared and proclaimed, the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes are in excess of the fees, dues, or duties imposed on the vessels of such foreign country, or their cargoes, or of the fees, dues, or duties imposed on the vessels of the country in which are the ports mentioned in this proclamation, or the cargeos of such vessels.

While the facts given in your note may place Italian vessels from said Dutch ports outside of the above proviso, the actual statement does not precisely meet the terms of the proviso. It is, you will perceive, not only requisite that the country whose vessels seek to enjoy the privilege stated in the proclamation should not discriminate in its ports in favor of its own vessels as against vessels of the United States, but also that it should not discriminate in its ports against vessels of the United States, and in favor of the vessels of the country in which the ports named in the proclamation may be situate.

If, therefore, Italy makes no discrimination of any sort, such as described in the proclamation, against American vessels, the Department would be glad of an express statement, such as might be suggested by the terms of the proviso.

The Department, will, however, transmit a copy of your note to the Treasury, with the request that if no such discrimination as that described in the proclamation is made by Italy, Italian vessels may be permitted to enjoy the benefits of the proclamation, when coming from the ports therein designated.

Accept, etc.,

T. F. BAYARD.

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No. 61.

*Mr. Ferrara to Mr. Bayard.*

[Translation.]

LEGATION OF ITALY,
*Washington, July* 27, 1887. (Received July 28.)

MR. SECRETARY OF STATE:

In reply to your excellency's note of yesterday I have the honor to advise you that, according to the information received from my Gov-

ernment, United States vessels and their cargoes are not obliged to pay any discriminating duty in the ports of Italy, either as compared with Italian vessels, those of the Netherlands, or those of any other country.

I beg your excellency to be pleased to bring the foregoing to the notice of the Treasury Department, and to request that Department to take the necessary measures in order that Italian merchant vessels may be allowed to enjoy the advantages granted by the President's proclamation of the 22d of April last, and by the other proclamations previously issued by the President of the United States in pursuance of Article XIV of the act of March 26, 1884.

Begging you to be pleased to acquaint me, as speedily as possible, with the decision reached by the Treasury Department in regard to this matter, I offer you, Mr. Secretary of State, my warmest thanks, and I avail, etc.

E. FERRARA.

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No. 62.

*Mr. Bayard to Count de Foresta.*

DEPARTMENT OF STATE,
*Washington, August* 23, 1887.

COUNT: I have the honor to acknowledge the receipt of Mr. Ferrara's note of the 27th ultimo, stating that United States vessels and their cargoes are not obliged to pay any discriminating duty in the ports of Italy, either as compared with Italian vessels, those of the Netherlands, or those of any other country. I communicated the facts to the Treasury and have received a letter from that Department informing me that Italian vessels coming from the ports named in the President's proclamation of April 22 last, of which I inclose copy, will be admitted in the United States under the terms of that proclamation.

Accept, etc.,

T. F. BAYARD.

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## JAPAN.

No. 63.

*Mr. Hubbard to Mr. Bayard.*

No. 383.] UNITED STATES LEGATION,
*Tokio, Japan, September* 24, 1887. (Received October 24.)

SIR: I have the honor to inclose herewith, for the information of the Department of State, a copy of a note received from his excellency the minister for foreign affairs, in reply to my note of the 30th ultimo in pursuance of your instruction (circular) dated July 9, 1887.

The Department will observe that in this instance—as in all similar propositions heretofore—the Japanese Government, while earnestly professing a desire to enter into separate reciprocal conventions for mutual considerations of benefit to be received by the high contracting parties through such conventions, yet declare that, under the favored nation clause of the existing treaties, it can not be done by their Gov-

ernment in the comprehensive sense intended by the invitation of the United States Government, conveyed by your instruction.

The note herewith of the minister for foreign affairs fully explains the status of this Government in response to my note acquainting that minister of the desire of my Government in the premises.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure with No. 383.—Translation.]

*Count Inouye Kaoru to Mr. Hubbard.*

No. 7637.] DEPARTMENT FOR FOREIGN AFFAIRS,
*Tokio, the 15th day, the 9th month, the 20th year of Meiji.*

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 30th ultimo, in which you inclosed copies of a communication from the honorable the Secretary of State of the United States and two acts of Congress, approved June 26, 1884, and June 19, 1886, respectively, and invited His Imperial Japanese Majesty's Government to unite with your excellency's Government in a measure looking to the reciprocal abolition of tonnage and light dues upon vessels employed in the trade between the ports of Japan and those of the United States.

While His Imperial Japanese Majesty's Government warmly appreciate the friendly spirit that inspired the invitation, and fully recognize the enlightened and liberal aim of the Government of the United States in the endeavor to ameliorate the condition of shipping, they are, nevertheless, prevented by their conventional engagements with other powers from accepting the invitation in its most comprehensive sense.

I have not, however, failed to observe, as pointed out by Mr. Bayard, that the act of Congress, in accordance with which the invitation was issued, is broad enough to cover a reduction as well as a total extinction of tonnage and equivalent charges on navigation. In order, therefore, that vessels interested may, to a limited extent at least, avail themselves of the benefits of the law, I beg to assure your excellency that vessels of the United States engaged in the foreign trade of Japan are in all respects placed upon an exact equality with national vessels engaged in the same trade and upon the same footing as the vessels of the most favored nation. No tonnage or light dues whatever are levied in the ports of Japan upon American vessels, but in lieu thereof, and in lieu of all similar charges, an entrance fee of $15 and a clearance fee or $7 at each entry and clearance, irrespective of burthen, is collected from American vessels in common with all other foreign-going ships.

I avail, etc.,

COUNT INOUYE KAORU.

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## No. 64.

*Mr. Hubbard to Mr. Bayard.*

No. 417.] LEGATION OF THE UNITED STATES,
*Tokio, December 28*, 1887. (Received January 21, 1888.)

SIR: Respectfully referring to my dispatch No. 383, in which I had the honor to inclose a copy of a note from the Japanese minister for foreign affairs in reply to my note to him transmitting a copy of your circular instruction of July 9, and accompanying inclosures, with an invitation to His Imperial Japanese Majesty's Government to enter into an arrangement with the United States Government for a mutual abolition or reduction of tonnage dues, etc., on vessels plying between the ports of our respective countries, I now have the honor to submit to the Department of State a copy of a note just received from Count Ito on the same subject.

The accompanying note is in reply to a communication from me in which I inclosed a copy of your instruction No. 164, expressing regret at the action of the Japanese Government in declining to enter into said arrangement or convention as desired by the United States Government. The reply of Count Ito explains itself, and I only have the honor to respectfully invite your attention to his communication and especially to the closing paragraph of his note.

I have merely acknowledged the receipt of this reply, informing the Japanese Government that I would refer the same and the accompanying inquiry to my Government for its early consideration. I have also assured the minister for foreign affairs that a response thereto would be made, and might be anticipated, in accordance with that spirit of justice and good neighborhood which has always been manifested by our laws as well as by our treaties with all friendly powers.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure in No. 417—Translation.]

*Count Ito to Mr. Hubbard.*

DEPARTMENT FOR FOREIGN AFFAIRS,
*Tokio, the 24th day, the 12th month, the 20th year of Meiji.*

SIR: I have the honor to acknowledge the receipt of your excellency's note dated the 9th instant, transmitting a copy of a communication from the honorable the Secretary of State, in which he expresses regret at the non-acceptance by His Imperial Japanese Majesty's Government of the invitation of the United States to enter into a convention for the abolition of tonnage or other equivalent charges on merchant vessels plying between Japan and the United States.

The nature of Mr. Bayard's reply leads me to believe that he has slightly misapprehended the exact meaning of my former note on this subject.

You will recollect that Mr. Bayard, in his instruction of the 9th July last, a copy of which you forwarded to Count Inouye, intimated that the shipping acts under which his invitation was extended were sufficiently comprehensive to cover either a reduction or a complete abolition of tonnage and equivalent charges, and in the same connection he added, "It is open to any foreign country in all or any of whose ports a less charge is made than that now imposed in the ports of the United States to obtain forthwith a reduction in the United States on vessels from such port or ports to an equality with that levied in the port or ports designated."

In replying to the invitation of the Government of the United States, I pointed out the reasons which prevented His Imperial Japanese Majesty's Government from entering into an arrangement having for its object the complete extinction of all customs charges in respect of merchant shipping. In order, however, that vessels proceeding from Japan to the United States might, to a limited extent at least, take advantage of the acts in question, I took occasion to assure you that no tonnage dues were levied in the ports of Japan on vessels of the United States, and that such vessels were, in the matter of fees, placed upon a national as well as the most favored-nation footing.

The exemption of vessels of the United States from tonnage dues is already a matter of conventional understanding between our respective Governments, as will be seen by reference to article 6 of the trade regulations attached to the treaty of 1858. It was consequently more particularly in the direction of equivalent or other shipping charges that His Imperial Japanese Majesty's Government were unable to accept the proposal of the United States.

Having in view the fact, however, that those charges are considerably less than the tonnage dues ordinarily imposed in the United States, I beg to inquire what the future status of Japanese and other vessels proceeding thither will be in respect of navigation charges.

I avail, etc.,

COUNT HIROBUMI ITO.

No. 65.

*Mr. Bayard to Mr. Hubbard.*

No. 186.] DEPARTMENT OF STATE,
*Washington, February* 4, 1888.

SIR: I have received your No. 417 of December 28, 1887, concerning the desire of Japan to enter into a convention for the abolition of tonnage or equivalent charges on merchant vessels plying between the United States and Japan.

A copy of your dispatch was at once communicated to the Secretary of the Treasury, a copy of whose reply, dated the 1st instant, is herewith transmitted. To enable full consideration of the subject and a definite reply to be made to the inquiry of the Japanese minister for foreign affairs as to the future status of Japanese and other vessels proceeding to the United States respecting navigation charges, it will be necessary to ascertain the amount of tax or taxes, equivalent to tonnage or light-house dues, imposed in Japan on American vessels.

You will therefore take occasion to obtain this information, which should be set forth in detail, if possible, in accordance with the suggestion of the Secretary of the Treasury.

I am, etc.,

T. F. BAYARD.

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[Inclosure in No. 186.]

*Mr. Fairchild to Mr. Bayard.*

TREASURY DEPARTMENT, *February* 1, 1888.

SIR: I have the honor to acknowledge the receipt of your letter, dated the 24th ultimo, relating to the proposal of the Government of Japan to take advantage of the provisions of the act of Congress approved June 19, 1886, entitled "An act to abolish certain fees," etc.

The copy of a letter from the Japanese minister for foreign affairs, accompanying the United States minister's dispatch, states that the charges in Japan are less than the dues ordinarily imposed in the United States, and inquires what the future status of Japanese and other vessels proceeding to the United States will be in respect of navigation charges.

Before replying to his inquiry, this Department suggests that information be obtained through the proper officers of the United States in Japan as to the amount of tax or taxes, equivalent to tonnage or light-house dues, imposed in Japan on American vessels. Not only the amount should be ascertained, but the frequency of the charge should be also stated, to enable this Department to determine the question which will arise under section 14 of the act of June 26, 1884, as amended by section 11 of the act of June 19, 1886. There should be also explicit information to show whether or not the fees or dues, of any kind or nature, imposed on vessels of the United States, or the import or export dues on their cargoes, are in excess of the fees, dues, or duties imposed on the vessels of Japan or on the cargoes of such vessels.

I am, etc.,

C. S. FAIRCHILD,
*Secretary.*

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No. 66.

*Mr. Hubbard to Mr. Bayard.*

No. 452.] LEGATION OF THE UNITED STATES,
*Tokio, March* 20, 1888. (Received April 21.)

SIR: Referring to your instruction No. 186, dated February 4, concerning the desire of Japan to enter into a convention for the abolition of tonnage or other equivalent charges on merchant vessels plying be-

tween the ports of the United States and Japan, and in which instruction you directed me, at the instance of the honorable the Secretary of the Treasury, to ascertain the amount of tax or taxes equivalent to tonnage or light-house dues imposed in Japan on American vessels, I have the honor to inclose herewith a copy of the reply from the Japanese minister for foreign affairs to my note making said inquiries.

It will be observed that Count Okuma says that nearly all the information desired by the honorable Secretary of the Treasury is contained in the communication addressed to me by Count Ito on this subject on the 15th of September, 1887, a copy of which note I had the honor to inclose to the Department of State in my dispatch No. 383 of September 24, 1887.

I beg, therefore, to invite the Department's attention to the following extract from the note of Count Ito referred to:

In order, therefore, that vessels interested may, to a limited extent at least, avail themselves of the benefits of the law, I beg to assure your excellency that vessels of the United States engaged in the foreign trade of Japan are in all respects placed upon an exact equality with national vessels engaged in the same trade, and upon the same footing as the vessels of the most favored nation. No tonnage or light dues whatever are levied in the ports of Japan upon American vessels, but in lieu thereof and in lieu of all similar charges an entrance fee of $15 and a clearance fee of $7 at each entry and clearance, irrespective of burden, is collected from American vessels in common with all foreign-going ships.

I beg also to call the Department's attention to the closing paragraph of the note from Count Okuma which I have the honor to inclose herewith:

In order, however, that full and complete answers may be made to Mr. Fairchild's inquiries, I beg to supplement Count Ito's reply by the assurance that no higher fees or dues of any kind or nature are imposed on vessels of the United States than are imposed on Japanese vessels, and that no higher import or export duties are levied on the cargoes of vessels of the United States than are levied on the cargoes of Japanese vessels.

I have, etc.,

RICHARD B. HUBBARD.

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[Inclosure in No. 452.—Translation.]

*Count Okuma to Mr. Hubbard.*

DEPARTMENT FOR FOREIGN AFFAIRS,
*Tokio, the 14th day, the 3d month, the 21st year of Meiji.*

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, with its accompaniments, in continuation of the subject of tonnage or other equivalent charges levied on merchant vessels plying between Japan and the United States.

Nearly all of the information on the subject desired by the honorable the Secretary of the Treasury of the United States is contained in the communication addressed to you by my predecessor, Count Ito, on the 15th September last, to which I have the honor to invite your attention.

In order, however, that full and complete answers may be made to Mr. Fairchild's inquiries, I beg to supplement Count Ito's reply by the assurance that no higher fees or dues of any kind or nature are imposed on vessels of the United States than are imposed on Japanese vessels, and that no higher import or export duties are levied on the cargoes of vessels of the United States than are levied on the cargoes of Japanese vessels.

I avail, etc., COUNT OKUMA SHIGENOBU.

No 67.

*Mr. Bayard to Mr. Hubbard.*

No. 210.] DEPARTMENT OF STATE,
*Washington, May* 2, 1888.

SIR: I have to acknowledge the receipt of your No. 452 of March 20, 1888, touching the subject of tonnage or other equivalent charges leviable on merchant vessels plying between Japan and the United States, and to inclose, for your information, a copy of a letter from the Secretary of the Treasury of the 27th ultimo relative thereto. Mr. Fairchild's letter covers a report to him upon the subject by the Commissioner of Navigation, who reviews the statements of the Japanese Government, and concludes that the fees levied by that Government on vessels of the United States "should be considered as equivalent to the tonnage tax levied in this country. The tax in Japan may therefore be considered as offsetting that in the United States, and no action should be taken to reduce the existing tax on vessels from Japan unless the Government of that country shall modify its laws favorably to American vessels."

It will be further observed that the Secretary of the Treasury is "not at present aware of any good reason for dissenting from the opinions he (the Commissioner of Navigation) expresses in regard to the matter."

I am, etc.,

T. F. BAYARD.

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[Inclosure 1 in No. 210.]

*Mr. Fairchild to Mr. Bayard.*

TREASURY DEPARTMENT,
*April* 27, 1888.

SIR: I have the honor to acknowledge the receipt of your letter dated the 25th instant, transmitting a copy of a dispatch from the United States minister at Tokio (No. 452), relative to an inquiry by the Japanese Government as to the status of Japanese vessels in the United States, and substantially suggesting a reduction of the tax in the United States on vessels from Japan.

A copy of a report upon the subject from the Commissioner of Navigation is inclosed herewith for your information. I am not at present aware of any good reason for dissenting from the opinions he expresses in regard to the matter.

Respectfully yours,

C. S. FAIRCHILD.

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[Inclosure 2 in No. 210.]

*Mr. Morton to Mr. Fairchild.*

TREASURY DEPARTMENT,
BUREAU OF NAVIGATION,
*Washington, D. C., April* 27, 1888.

SIR: I have the honor to report that this office has taken measures to ascertain the charges on American vessels in the ports of Japan equivalent to tonnage or lighthouse dues.

It is found that the sum of $15 is collected upon the entry of such vessels in those ports, and the sum of $7 upon clearance. While admitting that these charges are

imposed on all vessels, the Japanese Government proposes that action be taken by this Government, under section 11 of the act of June 19, 1884, to relieve vessels arriving in the United States from Japan, of tonnage dues.

In the letter from the Japanese minister for foreign affairs, which accompanied the communication of the Secretary of State, dated January 24, 1888, it was suggested that the charges in Japan were less than the dues ordinarily imposed in the United States, and the minister inquired what the future status of Japanese and other vessels proceeding to the United States would be, in respect to navigation charges. The matter was further referred to in the letter of the Japanese minister for foreign affairs accompanying the communication from the Secretary of State, dated the 25th instant, it being therein stated that no higher fees or dues, of any kind or nature, are imposed on vessels of the United States than are imposed on Japanese vessels, and that no higher import or export duties are levied on the cargoes of vessels of the United States than are levied on the cargoes of Japanese vessels.

Under the existing regulations, Japanese vessels are admitted into the ports of the United States on the same terms as the vessels of the United States, and no discrimination is made against any vessels by reason of their arrival in the United States from Japan. All such vessels, however, must enter in the United States subject to the maximum tax imposed by the section of law above cited, there being no proclamation of the President authorizing their admission at a less rate. In the opinion of this office, such a proclamation, under the existing circumstances, would be inadmissible, for the reason that the fees levied by the Japanese Government as aforesaid on vessels of the United States should be considered as equivalent to the tonnage tax levied in this country.

It is true, as mentioned by the Japanese minister, that the amount collected on any particular entry may be somewhat less than that imposed on the entry of a vessel of similar size in the United States. But while the tax is levied in this country not to exceed five times in any one year, this office has no information that the corresponding tax in Japan may not be levied an indefinite number of times within a year, that is to say, on each entry and clearance of any vessel, however often such entry and clearance may occur. The tax in Japan may therefore be considered as offsetting that in the United States, and no action should be taken to reduce the existing tax on vessels from Japan, unless the Government of that country shall modify its laws favorably to American vessels.

Respectfully, yours,

C. B. MORTON,
*Commissioner.*

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## MEXICO.

### No. 68.

### *Mr. Manning to Mr. Bayard.*

No. 204.] LEGATION OF THE UNITED STATES,
*Mexico, August* 31, 1887. (Received September 14.)

SIR: Referring to your circular, dated July 9, 1887, suggesting the abolition of tonnage duties and equivalent charges on navigation, I have to report that the same was forwarded to Mr. Mariscal, and he has replied that he has sent the circular to the treasury department, requesting information on the subject.

I am, etc.,

TH. C. MANNING.

## No. 69.

### *Mr. Connery to Mr. Bayard.*

No. 244.] LEGATION OF THE UNITED STATES,
*Mexico, October* 10, 1887. (Received October 20.)

SIR: I am only this moment in receipt of a note from Mr. Mariscal, dated the 20th ultimo, and addressed to Mr. Manning, in regard to the invitation contained in your printed circular of July 9, this year, to the Government of Mexico, to co-operate with the Government of the United States in the wise movement for the abolition of tonnage and equivalent charges on navigation.

I inclose a copy of Mr. Mariscal's note, translated, giving his reasons why, in the the present straitened condition of the finances of his country, and while its mercantile marine is but yet in its infancy, it would be impossible for the Mexican Government to accept your invitation. The movement, you will observe, he admits is based on excellent principles, but he adds that in Mexico's present situation the advantages would be all on one side, as her vessels are few and engaged mainly in the coasting trade, while the revenues of the country are chiefly derived from the duties levied through her custom-houses—duties which could not be dispensed with in the absence of some other and better plan to supply the Government with the necessary funds.

I am, etc.,

THOMAS B. CONNERY.

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[Inclosure in No. 244.—Translation.]

### *Mr. Mariscal to Mr. Manning.*

DEPARTMENT OF FOREIGN AFFAIRS,
*Mexico, September* 20, 1887.

Mr. MINISTER: Having requested of the Treasury Department a report respecting the propositions contained in your excellency's note of August 18 with regard to the abolition, by reciprocal action, of tonnage dues and equivalent charges on navigation, I have the honor to reply to your excellency that, while not failing to recognize the excellence of the bases indicated by your Government with the object of arriving at an agreement on the subject, the Government of Mexico is not able at the present time to accept such propositions, for the reason that in the present condition of the mercantile marine of the Republic the reciprocity would be illusory in view of the fact that the vessels of which it is composed are very few, and are employed for the greater part simply in the coasting trade.

On the other hand, the economical state of the country, though it has notably improved in the last few years, still feels in too marked a manner the effects of the adverse circumstances that operated against it in the past to warrant the treasury in dispensing with legitimate sources of revenue that it has gone on collecting, unless another manner of supplying the revenue could be conveniently substituted; a matter which at the present moment it would be extremely difficult to do.

With respect to the duties that are actually imposed on vessels in the ports of the Republic, I have the honor to assure your excellency that none of these duties are imposed specially on vessels of the United States or any other State, but that the regulations are general for all foreign nations alike.

Your excellency will be able, if so desired, to examine in detail the established (existing) duties in articles 17 to 20 of the general custom-house law, and in sections third, eighth, and tenth of the first article of the law of entries, issued on the 28th of April of this year.

While assuring your excellency that on the part of the Mexican Government there exists the strongest desire to maintain and encourage commercial relations with the United States, it pleases me to reiterate, etc.,

IGNO. MARISCAL.

## THE NETHERLANDS.

### No. 70.

*Mr. Bayard to Mr. Bell.*

No. 81.] DEPARTMENT OF STATE,
*Washington, January 5*, 1887.

SIR: Soon after the approval of the so-called "Dingley" shipping act of June 26, 1884, the governments of several European countries laid claim to an extension to their commerce of the privilege conceded to neighboring navigation, under the fourteenth section of that act.

The correspondence on the subject is printed in the inclosed executive document. The Government of the Netherlands did not then claim the benefits of the act under the most favored nation stipulations of treaty with the United States.

On the 19th of June last an amendatory act was approved, by the eleventh section of which reciprocal arrangements with foreign countries were authorized, looking to the reduction or abolition of tonnage dues. Since the passage of that act the Netherlands Government has offered to enter into the proposed reciprocal understandings. Copy of Mr. de Weckherlin's note of the 8th November, 1886, is inclosed for your information.

A delay has arisen in making the favorable response which is due alike to the soundness of the Netherlands' request and to the good spirit which has apparently prompted that Government to refrain from a technical demand, and to resort to the channels generously provided by our legislation for drawing closer our commercial relations with other States.

It would probably have a good effect if you were to intimate unofficially and in conversation to his excellency the satisfaction we feel at the form of the Netherlands' proposal and our hope that an arrangement may be speedily reached.

As illustrating the character of the claim preferred by other governments, I inclose for your information copies of recent correspondence on the subject had with the Swedish and Norwegian minister at this capital.

I am, etc.,

T. F. BAYARD.

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### No. 71.

*Mr. Bell to Mr. Bayard.*

No. 214.] LEGATION OF THE UNITED STATES,
*The Hague, January* 21, 1887. (Received February 3.)

SIR: I have the honor to report to you that as soon as a favorable opportunity presented after the receipt of your dispatch No. 81, of January 5, I called unofficially upon his excellency the minister of foreign affairs, to communicate to him the gratification of the Government of the United States at the friendly form of the proposal of His Majesty's Government as presented through Mr. Weckherlin's note of the 8th of November, 1886, respecting a reciprocal arrangement looking to the

abolition of tonnage dues in the case of vessels engaged in navigation between the two countries.

In compliance with the request contained in your dispatch, I intimated unofficially, in conversation with his excellency, that the Government of the United States was eminently gratified with the good spirit which had apparently prompted the Government of His Majesty in resorting to the channels generously provided by our legislation for drawing closer our relations with other States.

I took occasion at the same time to express my confidence that the Government of the United States fully recognized the soundness of the request made by His Majesty's Government, and that an arrangement would doubtless be speedily reached whereby the benefits of the act of June 19, 1886, would be extended to those ports in the Kingdom of the Netherlands and such ports in the Dutch East Indies as fulfill the conditions required by the act in question.

His excellency, after having expressed great pleasure at the information which I communicated to him, replied in substance that he was very solicitous for an early adoption of the necessary measures, as he was constantly in receipt of reclamations upon the subject from interested parties.

His excellency referred especially to the steam-ship lines plying between the ports of Amsterdam, Rotterdam, and New York, which he said were now strugging for an existence, and, while adding that every extra expense was very hard for them to bear, expressed considerable anxiety to know when it is likely that the necessary arrangements will be consummated.

In conclusion, I may add that my entire interview with his excellency was most cordial, and his expressions of satisfaction were undisguised both at the nature of the communication and the manner of your instructions.

I have, etc.,

ISAAC BELL, JR.

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No. 72.

*Mr. Bayard to Mr. Bell.*

No. 82.] DEPARTMENT OF STATE,
*Washington, February* 10, 1887.

SIR: Your dispatch No. 214, of the 21st ultimo, in which you give an account of your recent interview with the Netherlands minister of foreign affairs respecting the subject of the reciprocal abolition of tonnage dues, has been received and read with interest.

Referring to my instruction No. 81, of the 5th ultimo, I now transmit to you herewith, as further illustrating the views of this Government on the subject, a copy of House bill No. 10703, and also of the Department letter of the 14th ultimo to the chairman of the Shipping Committee of the House of Representatives.

Adding that your dispatches, numbered from 199 to 214, have been received,

I am, etc.,

T. F. BAYARD.

*CORRESPONDENCE WITH THE LEGATION OF THE NETHERLANDS IN WASHINGTON.*

No. 73.

*Mr. de Weckherlin to Mr. Bayard.*

[Translation.]

LEGATION OF THE NETHERLANDS,
*New York, November* 8, 1886. (Received November 10.)

Mr. SECRETARY OF STATE:

As you are aware, section 11 of the act of Congress approved June 19, 1886 ("Public" No. 85), and entitled "An act to abolish certain fees for official services to American vessels, and the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," after fixing the rates of tonnage duties to be paid by all vessels entering a port of the United States of America, provides as follows:

*Provided*, That the President of the United States shall suspend the collection of so much of the duty herein imposed on vessels entering from any foreign port as may be in excess of the tonnage and light-house dues, or other equivalent tax or taxes, imposed in said port on American vessels by the Government of the foreign country in which such port is situated, and shall, upon the passage of this act, and from time to time thereafter, as often as it may become necessary by reason of changes in the laws of the foreign countries above mentioned, indicate by proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage duty, if any, to be collected under such suspension.

*Provided further*, That such proclamation shall exclude from the benefits of the suspension herein authorized the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues, or duties imposed on the vessels of the country in which such port is situated, or on the cargoes of such vessels; and sections 4223 and 4224, and so much of section 4219 of the Revised Statutes as conflict with this section, are hereby repealed.

In view of these provisions, I take the liberty to call your attention to the fact that Article I of the law of the Netherlands, which bears date of June 3, 1875, No. 101 (the said law still being in force), abolished light-house and light dues, tonnage dues, and beacon and buoy dues in the Kingdom of the Netherlands.

I will add that my Government does not impose any other equivalent tax upon foreign vessels, no matter under what flag they may sail.

It is probably superfluous for me to remind your excellency that vessels belonging to the United States of America, and their cargoes, are not required in the Netherlands to pay any "fee or due of any kind or nature," or any import duty higher or other than would be payable by vessels of the Netherlands or their cargoes.

As to export duties, which are likewise mentioned in the act of June 19, 1886, you know that none exist in the Netherlands.

The same is the case in the free ports of the Dutch East Indies, a list of which you will find herewith, and in which not only are vessels subjected to no fiscal tax, but no import or export duties are levied there.

My Government thinks, Mr. Secretary of State, that the ports of the Netherlands which I have just mentioned, viz, those in the Kingdom of the Netherlands (in Europe) and the free ports in the Dutch East Indies, fulfill the conditions required by section 11 of the act of June 19, 1886, and I am consequently instructed to beg you to be pleased, with your accustomed kindness, to cause such measures to be adopted

that the collection of tonnage dues in the United States of America may be suspended in the case of vessels coming from the ports in question.

Be pleased to accept, etc.,

G. DE WECKHERLIN.

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[Inclosure.]

*List of free ports in the Dutch East Indies.*

Island of Riouw:
- Riouw.

Island of Bali:
- Pabean.
- Sangrit.
- Loloan.
- Tamboekoes.

Island of Timor:
- Koepang.

Island of Celebes:
- Makassar.
- Menado.

Island of Celebes:
- Kema.
- Gorontalo.

Moluccas:
- Amboina.
- Saparoa.
- Banda.
- Ternate.
- Kajeli.

Island of Sumatra:
- Oleh-leh.
- Bengkalis.

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## No. 74.

### *Mr. Bayard to Mr. de Weckherlin.*

DEPARTMENT OF STATE,
*Washington, April* 22, 1887.

SIR: I had the honor on the 10th of November last to receive your note of the 8th of the same month, in which you were pleased to advert to section 11 of the shipping act approved June 19, 1886, and, after citing its provisions, to advise me that neither in the Kingdom of the Netherlands nor in the free ports of the Dutch colonies, of which you append a list, are any light dues, tonnage dues, or beacon or buoy dues imposed, neither is any other equivalent tax here imposed upon foreign vessels; and, further, that no export duties exist in the Netherlands or their free ports, and that where an import duty is levied on cargo brought by foreign vessels it is no higher or other than would be payable by vessels of the Netherlands or their cargoes. In view of this recital, you state it to be the opinion of your Government that the European ports of the Netherlands and the free ports in the Dutch East Indies (mentioned in your aforesaid list) "fulfill the conditions required by section 11 of the act of June 19, 1886," and consequently, under your instructions, you request me "to cause such measures to be adopted that the collection of tonnage dues in the United States may be suspended in the case of vessels coming from the ports in question."

Circumstances have (as I have stated to you in verbal conferences) interfered to prevent an earlier consideration of your note, but I beg you to believe that the delay has been due to no want of appreciation of the good-will which prompts the offer, and of the evident desire of the Royal Government to develop in every possible way the commercial and friendly ties between the Netherlands and the United States—a desire equally cherished by the Government I have the honor to represent, and for the expression of which it provides and seeks every appropriate channel.

I am happy to inform you that the President, accepting the declaration contained in your note as a satisfactory notification of entire reciprocity of treatment in the ports of the Netherlands, has, in the exercise of the authority conferred upon him by the said eleventh section of the statute of June 19, 1886, issued his proclamation (copies of which are herewith inclosed for your information) suspending the collection of the whole of the duty of 6 cents per ton imposed by said section on vessels entering the ports of the United States from any port of the Netherlands in Europe, or from any free port of the Dutch colonies named in the list appended to your note; but, in equal obedience to the statute named, excluding from the benefits of such suspension in favor of vessels coming from said ports the vessels of any foreign country in whose ports the fees or dues of any nature imposed on vessels of the United States or the import or export dues on their cargoes are in excess of the fees, dues, or duties imposed on the vessels of the country in which such port is situated, or on the cargoes of such vessels.

It has afforded me great pleasure to observe that the proposal of the Government of the Netherlands adheres to the principle of reciprocity which pervades the treaties between the two countries, and which it has ever been the equal aim of the respective Governments to follow.

The twelfth section of the statute of June 19, 1886, provides—

That the President be, and hereby is, directed to cause the governments of foreign countries, which at any of their ports impose on American vessels a tonnage tax or light-house dues, or other equivalent tax or taxes, or any other fees, charges, or dues, to be informed of the provisions of the preceding section, and invited to co-operate with the Government of the United States in abolishing all light-house dues, tonnage taxes, or other equivalent tax or taxes on, and also all other fees for official services to, the vessels of the respective nations employed in the trade between the ports of such foreign country and the ports of the United States.

The declarations made in your note of the 8th ultimo would appear to remove the Netherlands from the class of foreign governments the invitation of which is contemplated by the statute, but inasmuch as it is not clear from your note that the appended list comprises (with the European ports of the Netherlands) *all* the ports under the administration of the Dutch Government with which vessels of the United States may trade, and moreover, as the section in question proposes the mutual abolition of "all other fees for official services to the vessels of the respective nations," it is proper that I should extend, as I now hereby do, the authorized invitation in the name of the Government of the United States to the Royal Netherlands Government, in order that such an understanding may be conventionally reached as may insure the absolute reciprocity and equality of the respective navigation between the two countries in the ports of the other, as to all official charges of any nature whatsoever.

Accept, etc.,

T. F. BAYARD.

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[Inclosure.]

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

Whereas satisfactory proof has been given to me by the Government of the Netherlands that no light-house and light dues, tonnage dues, or beacon and buoy dues are imposed in the ports of the Kingdom of the Netherlands; that no other equiva-

lent tax of any kind is imposed upon vessels in said ports, under whatever flag they may sail; that vessels belonging to the United States of America, and their cargoes, are not required, in the Netherlands, to pay any fee or due of any kind, or nature, or any import due higher or other than is payable by vessels of the Netherlands or their cargoes; that no export duties are imposed in the Netherlands; and that in the free ports of the Dutch East Indies, to wit, Riouw (in the island of Riouw), Pabean, Sangrit, Loloan, and Tamboekoes (in the island of Bali), Koepang (in the island of Timor), Makassar, Menado, Kema, and Gorontalo (in the island of Celebes), Amboina, Saparoa, Banda, Ternate, and Kajeli (in the Moluccas), Oleh-leh, and Bengkalis (in the island of Sumatra), vessels are subjected to no fiscal tax, and no import or export duties are there levied:

Now, therefore, I, Grover Cleveland, President of the United States of America, by virtue of the authority vested in me by section 11 of the act of Congress entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," approved June nineteenth, one thousand eight hundred and eighty-six, do hereby declare and proclaim that from and after the date of this my proclamation shall be suspended the collection of the whole of the duty of six cents per ton, not to exceed thirty cents per ton per annum (which is imposed by said section of said act) upon vessels entered in the ports of the United States from any of the ports of the Kingdom of the Netherlands in Europe, or from any of the above-named free ports of the Dutch East Indies:

*Provided*, That there shall be excluded from the benefits of the suspension hereby declared and proclaimed the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues, or duties imposed on the vessels of such foreign country, or their cargoes, or of the fees, dues, or duties imposed on the vessels of the country in which are the ports mentioned in this proclamation, or the cargoes of such vessels.

And the suspension hereby declared and proclaimed shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and their cargoes, shall be continued in the said ports of the Kingdom of the Netherlands in Europe and the said free ports of the Dutch East Indies, and no longer.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-second day of April, in the year of our Lord one thousand eight hundred and eighty-seven, and of the Independence of the United States the one hundred and eleventh.

[SEAL.] GROVER CLEVELAND.

By the President:

T. F. BAYARD,
*Secretary of State.*

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## No. 75.

### *Mr. de Weckherlin to Mr. Bayard.*

[Translation.]

LEGATION OF THE NETHERLANDS,
*Washington, May* 3, 1887. (Received May 4.)

MR. SECRETARY OF STATE:

I have the honor to offer you my sincere thanks for the letter you were pleased to write to me on the 22d of April last, and through which I learn with satisfaction that the President of the United States of America has, in conformity with the provisions of section 11 of the shipping act of June 19, 1886, No. 85, suspended tonnage dues in regard to vessels arriving in the United States from a certain class of ports in the Netherlands.

With respect to the invitation, which in the same paper you had the kindness to address to my Government, in consequence of the contents of section 12 of the said "shipping act," I hasten to inform you that I have not failed to take the steps necessary to insure its reaching its destination.

Accept, etc., G. DE WECKHERLIN.

No. 76.

*Mr. de Weckherlin to Mr. Bayard.*

[Translation.]

LEGATION OF THE NETHERLANDS,
*New York, June* 28, 1887. (Received June 29.)

MR. SECRETARY OF STATE:

I did not fail to inform my Government of the letter which you were good enough to address to me on the 22d April, to inform me that the President had suspended the tonnage dues on ships arriving in the United States from a certain category of ports of the Netherlands.

The minister of foreign affairs at the Hague received this information with pleasure, and desires me now to express to you how much he appreciates the decision of the United States Government in the matter in question.

In accordance with those instructions I have, therefore, the honor to offer you the thanks of Mr. Karnebeek, and I hope that you will permit me at the same time to inform you as regards the invitation to later negotiations, conveyed in your above-mentioned note, under section 12 of the shipping act of the 19th of June 1886, that my Government will hasten to examine the question with all the interest it merits.

Accept, etc.,

G. DE WECKHERLIN.

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PERU.

No. 77.

*Mr. Buck to Mr. Bayard.*

No. 282.] LEGATION OF THE UNITED STATES,
*Lima, Peru, September* 1, 1887. (Received October 4.)

SIR: As instructed in Department's circular of July 9, which I received on the 24th ultimo, I have advised the foreign office relative to act of Congress, approved June 19, 1886, to abolish certain fees for official services to American vessels, etc., as will fully appear in copy of note which I inclose.

I am, sir, etc.,

CHAS. W. BUCK.

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[Inclosure in No. 282.]

*Mr. Buck to Mr. Elias.*

No. 55.] LEGATION OF THE UNITED STATES,
*Lima, August* 27, 1887.

SIR: Under an act of Congress approved June 19, 1886, a reduction was made in the tonnage tax of 30 cents per ton per annum, formerly collected, and instead, a duty of 3 cents per ton is imposed, not to exceed in the aggregate 15 cents per ton in any one year on each entry of vessels into United States ports from all foreign ports and places in North America, Central America, the West India Islands, or the coast of South America bordering on the Caribbean Sea. This, it may be observed, has been considered as applying to a geographical zone, not involving a test of flag; while on vessels from all other foreign ports a duty of 6 cents per ton is imposed on each entry, not to exceed 30 cents per ton per annum in the aggregate, and not, however, to include *vessels in distress* or not engaged in trade.

It is also provided in the same act that the President of the United States shall suspend the collection of so much of the duty imposed on vessels entering from any foreign port as may be in excess of the tonnage and light-house dues, or other equivalent tax or taxes imposed in said port on American vessels by the Government of the foreign country in which such port may be situated, and shall, as often as it may be necessary by reason of changes in the laws of foreign countries, indicate by proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage duty, if any, to be collected under such suspension: *Provided*, That such proclamation shall exclude from the benefits of such suspension the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States or the import or export duties on their cargoes are in excess of the fees, dues, or duties imposed on the vessels of the country in which such port is situated, or on the cargoes of such vessels.

The President, under the law, is directed to cause the Governments of foreign countries which, at any of their ports impose on American vessels a tonnage tax or light-house dues, or other equivalent tax or taxes, or any other fees, charges, or dues, to be informed of the provisions of the relevant section of said law, and to invite them to co-operate with the Government of the United States in abolishing all light-house dues, tonnage taxes, or other equivalent tax or taxes on and also all other fees for official services to the vessels of the respective nations employed in the trade between ports of such countries and ports of the United States.

It will be seen that the provisions of the law referred to are broad enough to cover either a reduction or a complete abrogation by reciprocal action, of tonnage and equivalent charges on navigation; and it is open to any foreign country in all or any of whose ports a less charge is made than that now imposed in the ports of the United States to obtain forthwith a reduction of the charge in the United States on vessels from such port or ports, to an equality with that levied in the port or ports designated.

In view of these facts I am directed to invite the Government of Peru to co-operate with the United States toward the contemplated ends.

The intent of the present invitation is to deal, on the basis of reciprocity, without reference to geographical limits. In order that the statutory provisions may be fully understood, in case this explanation may seem in any way inadequate, I inclose a copy of the law with the sections marked to which I have referred.

I am further instructed to ascertain whether in the ports of Peru or in any dependency thereof, any discrimination exists against vessels of the United States as compared with the vessels of Peru (other than those engaged in coasting trade), or of any other country, and if so, the precise nature and extent of such discrimination; in order that the Government of the United States may determine how far shipping of Peru is to be restricted or excluded from the privileges created under the existing laws, or under arrangements of reciprocity if effected under the authorization of this indicated statute.

Both in thus communicating this invitation and in seeking the information just mentioned I desire to convey the fullest assurances to your excellency of the entire friendliness of the action of my Government, and of its desire to treat the commerce and flag of Peru on the footing of the most complete reciprocity in those matters to which the invitation relates.

Presenting herewith, etc.,

CHAS. W. BUCK.

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## RUSSIA.

### No. 78.

### *Mr. Wurts to Mr. Bayard.*

No. 136.] LEGATION OF THE UNITED STATES,
*St. Petersburg, August* 11, 1887. (Received August 27.)

SIR: I have the honor to aknowledge the receipt of your circular instruction of July 9, 1887, with its inclosures, relating to the proposal to remove tonnage and other charges on navigation, and to inform you that I have communicated the same to the Russian minister of foreign affairs.

I remain, etc.,

GEORGE W. WURTS.

No. 79.

*Mr. Lothrop to Mr. Bayard.*

No. 159.] LEGATION OF THE UNITED STATES,
*St. Petersburg, February* 18, 1888. (Received March 6.)

SIR: On the 10th of August last this legation transmitted to the Russian Government the invitation of the United States to co operate towards "either a reduction or a complete abolition, by reciprocal action, of tonnage and equivalent charges on navigation."

At the same time information was asked "whether in the ports of Russia or any dependencies thereof any discrimination existed against vessels of the United States as compared with those of Russia (other than those engaged in coasting or colonial trade), or the vessels of any other country."

A reply to said communication has this day been received from the imperial foreign office, a copy of which, with a translation thereof, I herewith inclose.

It will be seen that it is answered that no such discrimination exists, but that the equality and complete reciprocity stipulated for by Article II of the treaty of commerce ratified May 11, 1833, is faithfully observed.

It is also pointed out that since the making of said treaty Russia has made treaties with other powers, and that Article XI of said treaty admits the vessels of the United States to all the privileges granted by said later treaties to the most favored nation. But it is claimed that, in this state of things, the reduction of existing charges, etc., would place American vessels in positions more advantageous than national vessels, as under existing treaties the vessels of other nations would be admitted the same privileges. It is added, however, that the question has now no practical side, for, according to the report of 1886, only one American bottom has entered a Russian port, and only three Russian bottoms have arrived from American ports, while not a single one has cleared for that country.

For these reasons the Imperial Government declines to accede to the proposition of the United States.

The deplorable condition of the carrying trade between the United States and Russia, referred to above, was mentioned by me in my dispatch No. 16, September 16, 1885. At the beginning of this winter, after the closing of this port by ice, it was said that there were at one time, in the neighboring port of Revel, thirty cotton-laden ships coming direct from America, not one of which was an American bottom.

Very truly, etc.,

GEO. V. N. LOTHROP.

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[Inclosure in No. 159.—Translation.]

*Mr. Vlangaly to Mr. Lothrop.*

No. 817.] IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERNAL RELATIONS,
*St. Petersburg, July* 4 (16), 1888.

Mr. MINISTER: Under date of July 29 (August 10), 1887, the legation of the United States presented to the imperial ministry the proposal of the Government of the United States to establish an agreement with the object of a reciprocal reduction or abolition of tonnage and other charges on commercial vessels.

This proposal has been submitted to the examination of the competent administra-

tions, and I am now able to inform you of the point of view from which the Imperial Government looks at this question.

By the terms of Article II of the treaty of commerce and navigation between Russia and the United States of December 6 (18), 1832, American vessels in the ports of the Empire are treated upon the same footing as national vessels in respect to tonnage duties. Although in regard to other duties and charges, of whatever kind or denomination, American vessels are treated upon the same footing as the vessels of the most favored nations with which there is no treaty actually in force which regulates said duties and charges on the basis of an entire reciprocity, nevertheless, taking into consideration that, by Article XI of the same treaty, it is stipulated that any particular favor in commerce or navigation granted in the future to any other nation shall immediately become common to the United States, Russia having during this period made with other foreign powers treaties of commerce and navigation by which the vessels of these powers are treated on the footing of perfect equality with our national vessels, the same favor must be granted to American vessels. Consequently American vessels now enjoy in Russian ports, so far as relates to duties and charges imposed on vessels, the same privileges as the national vessels, and consequently the reduction of these charges would place American vessels in more advantageous conditions than national vessels, and as a consequence this privilege would have to be granted to the vessels of every nation which, by virtue of treaties actually in force, enjoys the privileges of the most favored nation.

Independently of the considerations above stated there is one having a practical side which could not be disputed.

The proposal of the Government of the United States, in case of its acceptance, would have a very restricted application, for, according to the report for the year 1886, there has been only one arrival and one departure of an American vessel in Russia, and only three of Russian vessels coming from America and not one destined for that country.

By reason of the foregoing the Imperial Government does not see its way to accede to the proposal of the Government of the United States.

Receive, Mr. Minister, etc.,

A. VLANGALY.

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## SWEDEN AND NORWAY.

### No. 80.

*Mr. Magee to Mr. Bayard.*

No. 99.] LEGATION OF THE UNITED STATES,
*Stockholm, October* 24, 1887. (Received November 8, 1887.)

SIR: I have the honor to inform you that on Saturday evening last I received a note from his excellency Count Ehrensvörd, secretary for foreign affairs for the United Kingdoms of Sweden and Norway, in which he informs me that the proposition submitted by the Government of the United States, looking to the abolishment of light-house fees, tax on tonnage, etc., will be considered by the respective councils of state of the two governments.

I have asked that this consideration may have as prompt action as is possible.

It is possible that a change in the personnel of the council of state will take place within a few weeks, as I had the honor to inform you in my No. 96. If so, there may be some delay occasioned before a concension of the submitted propositions is arrived at.

I have the honor, etc.,

RUFUS MAGEE.

## CORRESPONDENCE WITH THE LEGATION OF SWEDEN AND NORWAY AT WASHINGTON.

### No. 81.

*Mr. Ibsen to Mr. Bayard.*

LEGATION OF SWEDEN AND NORWAY,
*Washington, May* 21, 1888. (Received May 22.)

SIR: In a note dated October 15, 1887, the United States minister resident at Stockholm informed his excellency the minister of foreign affairs of the desire of the Government of the United States to come to an understanding with the Royal Government in regard to the total exemption of the vessels of the respective countries from all tonnage and light-house dues or any other taxes for official services being at present imposed on navigation with the United States.

The matter having been referred to the consideration of the royal board of trade, that department has requested me to procure a list specifying (1) all dues of any kind levied on Swedish vessels in American ports; (2) the amounts of such dues.

On account hereof I beg to recur to your usual courtesy and to ask that you will kindly enable me to comply with the request of the royal board of trade.

I avail, etc.,

SIGURD IBSEN.

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### No. 82.

*Mr. Adee to Mr. Ibsen.*

DEPARTMENT OF STATE,
*Washington, June* 9, 1888.

SIR: A copy of your note of the 21st ultimo, asking, under the instruction of your Government, to be furnished with a list specifying all dues of any kind levied on Swedish vessels in American ports, and, second, the amount of such dues, was transmitted to the Treasury Department, and I have now the honor to inclose a report from the Commissioner of Navigation of that Department, giving the information desired.

Accept, etc.,

ALVEY A. ADEE.

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[Inclosure 1.]

*Mr. Fairchild to Mr. Bayard.*

TREASURY DEPARTMENT,
*May* 31, 1888.

SIR: Referring to your letter of the 26th instant, I have the honor to transmit herewith a report and its inclosures by the Commissioner of Navigation, relating to the dues, etc., levied on Swedish vessels.

Respectfully, yours,

C. S. FAIRCHILD.

[Inclosure 2.]

*Mr. Morton to Mr. Fairchild.*

TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
*Washington, D. C., May* 31, 1888.

SIR: Referring to the letter of the Secretary of State dated the 26th instant, inclosing a copy of a note from the Swedish minister, in which he requests a list specifying (1) all dues of any kind levied on Swedish vessels in American ports, and (2) the amount of such dues, I have the honor to state that the tonnage dues imposed are set forth in the inclosed copy of the act of June 19, 1886, and that the fees are specified in the inclosed list.

No other fees or dues are imposed by the Government of the United States on Swedish vessels engaged in foreign trade.

It should be observed that the fees specified in the list are exacted only when the circumstances require the particular service to be performed for which they are allowed: thus, the admeasurement fees are not charged in the case of vessels already admeasured and certified under the Swedish laws.

Yours, etc.,

C. P. MORTON.

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